



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 15, 2012

Ms. Elaine Nicholson
Assistant City Attorney
City of Austin Law Department
P.O. Box 1088
Austin, Texas 78767

OR2012-07199

Dear Ms. Nicholson:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 453602.

Austin Energy received a request for bid tabulations and evaluative score sheets pertaining to a request for proposals for the purchase of renewable capacity and energy that was issued on February 1, 2011. You claim the submitted information is excepted from disclosure under section 552.133 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.133 of the Government Code excepts from disclosure a public power utility's information that is "reasonably related to a competitive matter." Gov't Code § 552.133(b). The Texas Legislature recently amended section 552.133, which now provides in relevant part:

(a) In this section, "public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, "competitive matter" means a utility-related matter that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

...

(B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies[.]

Id. § 552.133(a), (a-1)(1)(B). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2).

You state Austin Energy is a municipally-owned electric utility. Thus, you indicate Austin Energy is a public power utility for purposes of section 552.133. You state the submitted bid tabulations and score sheets “show offers, terms, ownership costs, prices and other considerations showing how each proposal fits with Austin Energy’s strategies and competitive objectives in the marketplace.” You further state the submitted information reasonably relates to “bidding and pricing information for purchased power because [it] show[s] prices and bids proposed to Austin Energy for the purchase of renewable energy[.]” We note the information at issue is not among the fifteen categories of information expressly excluded from the definition of “competitive matter” by section 552.133(a-1)(2). Based on your representations and our review of the submitted information, we find the submitted information relates to competitive matters as defined by section 552.133(a-1). Thus, we conclude Austin Energy must withhold the submitted information under section 552.133 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 453602

Enc. Submitted documents

c: Requestor
(w/o enclosures)