



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

August 29, 2012

Ms. Lisa D. Mares  
Counsel for Worforce Solution For Tarrant County  
Taylor Olson Adkins Sralla Elam L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

OR2012-13627

Dear Ms. Mares:

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# 464942.

The Texas Workforce Solutions for Tarrant County ("Workforce Solutions"), which you represent, received two requests from different requestors for information pertaining to a specified request for proposals. The first requestor seeks the (1) winning proposal, and (2) scoring sheets from each bidder. The second requestor seeks the narratives and budgets for each proposal. You claim that the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of several third parties. Accordingly, you state, and provide documentation showing, you notified the third parties of the request for information and of their rights to submit arguments to this office as to why the submitted information should not be released.<sup>1</sup> See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of

---

<sup>1</sup>The third parties notified were ResCare Workforce Services; C2 Global Professional Services, LLC; Dynamic Workforce Solutions-Texas, LLC; Julie Brandon-Holly; and SERCO of Texas, Inc.

exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, you state a portion of the submitted information, which you have labeled as Exhibit B-1, is not responsive to part one of the request from the first requestor because a winning bidder has not been selected by Workforce Solutions. Upon review, we agree the information you have labeled as Exhibit B-1 is not responsive to part one of the first requestor's request. This ruling does not address the availability of non-responsive information, and Workforce Solutions need not release this information to the first requestor.

Section 552.104 of the Government Code excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. The purpose of section 552.104 is to protect the purchasing interests of a governmental body in competitive bidding situations where the governmental body wishes to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 (1991) (discussing statutory predecessor). Section 552.104 protects information from disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987). Generally, section 552.104 does not except information from disclosure after bidding is completed and the contract has been executed. *See* Open Records Decision No. 541 (1990). However, in Open Records Decision No. 541, this office stated the predecessor to section 552.104 may protect information after bidding is complete if the governmental body demonstrates public disclosure of the information will allow competitors to undercut future bids, and the governmental body solicits bids for the same or similar goods or services on a recurring basis. *See id.* at 5 (recognizing limited situation in which statutory predecessor to section 552.104 continued to protect information submitted by successful bidder when disclosure would allow competitors to accurately estimate and undercut future bids); *see also* Open Records Decision No. 309 (suggesting that such principle will apply when governmental body solicits bids for same or similar goods or services on recurring basis).

In this instance, you argue the disclosure of the submitted information "would harm Workforce Solutions in a competitive situation by adversely impacting [Workforce Solutions'] selection ability to negotiate a final agreement." You state release of the information at issue "will impair [Workforce Solutions'] interests because the contract for this request for proposal has not been finalized." You further state "Workforce Solutions will begin a re-bid process for these same services in a few years for the same program at issue in the score sheets, and will use the same score sheets to evaluate any future bids."

---

<sup>2</sup>We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

Thus, you assert the release of the information at issue “would have a detrimental effect on Workforce Solutions’ ability to negotiate future contracts.” Based on your representations, we find you have demonstrated public release of the submitted information would cause specific harm to Workforce Solutions’ interests in particular competitive situations. Therefore, Workforce Solutions may withhold the responsive information from the requestors under section 552.104 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](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,



Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/som

Ref: ID# 464942

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Sharon Perry  
Real Workforce Solutions  
402 Golden Bear Drive  
Austin, Texas 78738  
(w/o enclosures)

Mr. Chakib Chehadi  
President & CEO  
C2 Global Professional Services, LLC  
P.O. Box 92377  
Austin, Texas 78709  
(w/o enclosures)

Ms. Terri Leisten  
President  
Dynamic Workforce Solutions-Texas, LLC  
7621 Yaupon Drive  
Austin, Texas 78759  
(w/o enclosures)

Ms. Julie Brandon-Holly  
8638 Scenic Green Circle, #11104  
Fort Worth, Texas 76244  
(w/o enclosures)

Mr. Patrick G. Kelley  
President and Manager  
Arbor E&T, LLC  
d/b/a ResCare Workforce Solutions  
9901 Linn Station Road  
Louisville, Kentucky 40223  
(w/o enclosures)

Ms. Nickie G. Valdez  
Vice President  
SERCO of Texas, Inc.  
555 N. Carancahua, Ste. 900  
Corpus Christi, Texas 78401  
(w/o enclosures)