



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 20, 2012

Ms. Ashley R. Allen  
Administrative Law Section  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

OR2012-15037

Dear Ms. Allen:

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# 465541.

The Texas General Land Office (the "GLO") received a request for the bids and bid tabulations related to RFP-21910-SK. You claim that the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally you state release of this information may implicate the proprietary interests of URS Corporation ("URS"). Accordingly, you have notified URS of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received comments from URS. We have considered the submitted arguments and reviewed the submitted information.

Section 552.104 of the Government Code excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." Gov't Code § 552.104(a). 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). 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 pertaining to a completed bidding process for which a contract has been executed. *See* Open Records Decision No. 541 (1990). However, this office has determined in some circumstances section 552.104 may apply to information pertaining to an executed contract where the governmental body solicits bids for the same or similar goods or services on a recurring basis. *See id.* at 5.

You state the information at issue relates to bid proposals that are currently being evaluated by the GLO and that a vendor for the project at issue has not yet been selected. You assert release of the information at issue would harm the GLO's competitive interests "by giving the respondents information about the other respondent's bid." Based on your representations and our review, we determine the GLO has demonstrated that release of the submitted information would harm its interests in a competitive bidding situation. Accordingly, the GLO may withhold the submitted information under section 552.104 of the Government Code, until such time as the contract has been executed.<sup>1</sup> *See* Open Records Decision No. 170 at 2 (1977) (release of bids while negotiation of proposed contract is in progress would necessarily result in an advantage to certain bidders at expense of others and could be detrimental to public interest in contract under negotiation).

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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

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<sup>1</sup>As our ruling is dispositive, we need not address URS's arguments against disclosure.

Ref: ID# 465541

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Dan Warth  
URS Corporation  
P.O. Box 201088  
Austin, Texas 78720  
(w/o enclosures)