



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 23, 2012

Ms. Doreen E. McGookey  
General Counsel  
Fort Worth Employees' Retirement Fund  
3801 Hulen Street, Suite 101  
Fort Worth, Texas 76107

OR2012-16909

Dear Ms. McGookey:

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# 471263.

The Fort Worth Employees' Retirement Fund (the "fund") received a request for the fund's ranking criteria, the requestor's firm's score sheet, a list of firms that applied, and a list of firms selected in connection with the securities litigation request for proposals. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, part of which is a representative sample.<sup>1</sup>

Section 552.104 of the Government Code protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." 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). 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

---

<sup>1</sup>We assume the "representative sample" of records 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.

except bids from disclosure after bidding is completed and the contract has been awarded. See Open Records Decision No. 541 (1990).

You inform us the fund requested proposals from law firms for services in connection with securities litigation. You state the fund has narrowed the number of law firms being considered but the selection process is pending and no contracts have been executed. You assert release of the submitted information would harm the fund's negotiating position and interfere with the hiring process. Based on your representations, we conclude the fund may withhold the submitted information under section 552.104 of the Government Code until such time as a contract has been executed. 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 the expense of others and could be detrimental to public interest in the contract under negotiation). As our ruling is dispositive, we need not address your remaining argument against disclosure of some of the submitted information.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

Ref: ID# 471263

Enc. Submitted documents

c: Reqrstor  
(w/o enclosures)