



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 10, 2012

Ms. Lisa D. Mares  
Counsel for the Workforce Solutions for Tarrant County  
Taylor Olson Adkins Sralla Elam L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2012-19816

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# 473667.

The Texas Workforce Solutions for Tarrant County ("Workforce Solutions"), which you represent, received a request for the tabulation summary and winning proposal for Financial Monitoring services. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of the submitted information may implicate the proprietary interest of E. Taylor and Associates. Accordingly, you notified this third party of the request and of its right to submit arguments to this office as to why the requested 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 the circumstances). We have considered the exception you claim and reviewed the submitted information.

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)*.

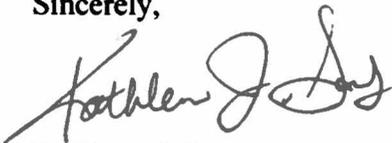
Generally, section 552.104 does not except information from disclosure after bidding is completed and the contract has been executed. *See* Open Records Decision No. 541 (1990). However, in Open Records Decision No. 541, this office stated the predecessor to section 552.104 may protect information after 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 contend release of the submitted information “would adversely impact [Work Solutions’] negotiation of future contracts by placing vendors at a competitive advantage.” You 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.” Thus, you assert the release of the information at issue “would have a detrimental effect on Workforce Solutions’s ability to evaluate bid proposals, award bids, and 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’s 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,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division  
KJS/bhf

Ref: ID# 473667

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)