



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 16, 2013

Ms. Danielle R. Folsom
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2013-08206

Dear Ms. Folsom:

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# 487566 (Houston GC No. 20324).

The City of Houston (the "city") received a request for the previous and current bid tabulations for four specified custodial services project bids.¹ You state the city has released some of the requested information but claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the claimed exception 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

¹The city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

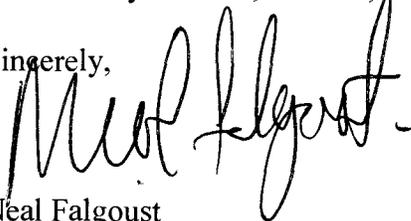
governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987). Generally, section 552.104 does not except bids from disclosure after bidding is completed and the contract has been executed. *See* Open Records Decision No. 541 (1990).

You inform us the submitted documents consist of information from previous solicitations by the city for janitorial services: L23546, which pertains to services for a convention center, L24177, which relates to services for the police department, and L24175, which relates to general services. You state the city rejected the bids for solicitation number L23546 because it was determined that the project or bid at issue should be revised. You also assert two new solicitations for janitorial services for services for the police department and general services are now open. You argue release of the information "would present a clear threat of harm to the [c]ity's ability to obtain the lowest price and most favorable terms possible for any future bids pertaining to these proposals." Based on your representations and our review, we determine the city has demonstrated release of the information related to L23546 would harm the city's interests in a competitive situation. Accordingly, the city may withhold this information, which we have marked, under section 552.104 of the Government Code. However, we find you have not explained how release of the remaining information would harm the city's interests in a competitive situation. Therefore, the city may not withhold the remaining information under section 552.104. Thus, the city must release the remaining information to the requestor.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/tch

Ref: ID# 487566

Enc. Submitted documents

c: Requestor
(w/o enclosures)