



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 30, 2014

Ms. Beth Vidaurri
Public Information Officer
Corpus Christi Regional Transportation Authority
5658 Bear Lane
Corpus Christi, Texas 78405

OR2014-01878

Dear Ms. Vidaurri:

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# 512644.

The Corpus Christi Regional Transportation Authority (the "authority") received a request for information pertaining to a specified request for proposals. We understand the authority has released some of the requested information. You claim 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 AFC Transportation, MV Transportation, and Maruti Fleet & Management. Accordingly, you state, and provide documentation showing, you notified the third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *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 exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Section 552.104 of the Government Code excepts from 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 a governmental body's interests in competitive bidding situations, including where the governmental body may wish to withhold information

in order to obtain more favorable offers. *See* Open Records Decision No. 592 at 8 (1991) (statutory predecessor to section 552.104 designed to protect interests of governmental body in competitive situation, and not interests of private parties submitting information to government). 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 bids from disclosure after bidding is completed and the contract has been executed. *See* Open Records Decision No. 541 (1990).

You state the authority has awarded the contract to one of the bidders, but has not executed a final contract with such bidder, and the release of the requested information before the final execution of the contract would disadvantage the authority in negotiating the most favorable terms in the final agreement. Based on these representations and our review, we conclude the authority has demonstrated release of the submitted information could harm its interests with respect to this project. Thus, the authority 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 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/akg

Ref: ID# 512644

Enc. Submitted documents

c: Requestor
(w/o enclosures)

John Ferrari
AFC Transportation
15734 Aldine Westfield Road
Houston, Texas 77032
(w/o enclosures)

Lisa Winston
MV Transportation
5910 N. Central Expressway, Suite 1145
Dallas, Texas 75206
(w/o enclosures)

Nita Parikh
Maruti Fleet & Mgmt.
1050 Edgewood Avenue South
Jacksonville, Florida 32205
(w/o enclosures)