



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 12, 2014

Mr. Thomas Bailey  
Legal Services  
VIA Metropolitan Transit  
P.O. Box 12489  
San Antonio, Texas 78212

OR2014-04179

Dear Mr. Bailey:

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# 516758.

VIA Metropolitan Transit ("VIA") received a request for information related to a specified contract. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. 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(a). The purpose of section 552.104 is to protect the interests of a governmental body in certain competitive situations, including competitive bidding. *See* Open Records Decision No. 592 (1991). Moreover, section 552.104 requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a competitor will gain an unfair advantage will not suffice. Open Records Decision No. 541 at 4 (1990). Generally, section 552.104 does not except bids from disclosure after bidding is completed and the contract has been executed. *See id.*

You state the submitted information is related to an RFP that has not resulted in an award of a contract. You contend release of the submitted information would harm VIA's negotiation power and could provide an unfair advantage to future bidders. Based on your

representations and our review, we conclude you have sufficiently demonstrated release of the information at issue would harm VIA in a specific competitive situation. *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). Accordingly, VIA may withhold the submitted information 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/ac

Ref: ID# 516758

Enc. Submitted documents

c: Requestor  
(w/o enclosures)