



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 1, 2014

Mr. Frank J. Garza  
Counsel for the Port Authority of San Antonio  
Law Offices of Davidson Troilo Ream & Garza, P.C.  
7550 West Interstate 10, Suite 800  
San Antonio, Texas 78229-5815

OR2014-11278

Dear Mr. Garza:

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# 527992.

The Port Authority of San Antonio (the "authority"), which you represent, received a request for information pertaining to custodial services the authority contracts for, including the current monthly costs to service each of the authority's buildings. You state you will provide some information to the requestor. You claim the remaining responsive 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 public disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The purpose of this exception is to protect a governmental body's interests in competitive bidding situations. *See* Open Records Decision No. 592 (1991). 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. *See* Open Records Decision No. 541 at 4 (1990). Generally, section 552.104 does not except information relating to competitive bidding situations once a contract has been awarded and is in effect. *See id.* at 5. However, this office has determined that under some circumstances, section 552.104 may apply to information pertaining to an executed contract where the governmental body solicits bids for the same or similar goods or services on a recurring basis. *Id.*

In this instance, you argue the pricing information and cleanable square footage information in the submitted documents are subject to section 552.104. We note, and you acknowledge, this information pertains to a contract the authority has already awarded. However, you state the authority is intending to solicit bids for the exact same services in the next month. You also state that if the pricing information is released, it will give competitors an unfair advantage in responding to the upcoming bid request. Based on your representations and our review, we find you have demonstrated that release of the pricing information in the submitted documents would harm the authority's interests in a particular ongoing competitive situation. *See* ORD 592. Therefore, the authority may withhold the submitted pricing information we have marked under section 552.104 of the Government Code. However, you have not demonstrated how the release of information pertaining to cleanable square footage will harm the authority's interests. Accordingly, the authority may not withhold information pertaining to cleanable square footage under section 552.104 of the Government Code. As you raise no further exceptions to disclosure for the remaining information, the authority must release it at this time.

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,



Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/som

Ref: ID# 527992

Enc. Submitted documents

c: Requestor  
(w/o enclosures)