



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 20, 2014

Ms. Nneka Kanu
Assistant City Attorney
Legal Department
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2014-18829

Dear Ms. Kanu:

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# 539947 (Houston GC No. 21647).

The City of Houston (the "city") received a request for information pertaining to plans for the integration and expansion of automated license plate reader systems and other technologies based on probabilistic assessment and other public records databases. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code.¹ You further state the proprietary interests of 3M Motor Vehicle Systems and Services ("3M"); ARC; Elsag North America; Fleet Safety Equipment, Inc.; HD Protech; L-3 Communications Mobile-Vision; Motorola Solutions, Inc.; PCS Mobile; and VisualPro 360, Inc. might be implicated by the request. Accordingly, you notified the affected third parties of the request and of their right to submit arguments to this office explaining why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on

¹Although you raise sections 552.101, 552.110, 552.113 and 552.131 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim that these exceptions apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

interested third party to raise and explain applicability of exception in certain circumstances). We have received arguments submitted by 3M and HD Protech. We have considered the submitted arguments and reviewed the submitted representative sample of information.²

Initially, we note you have marked a portion of the submitted information as not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the city need not release non-responsive information to the requestor.

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). Section 552.104 does not except information relating to competitive bidding situations once a contract has been awarded. *See id.* at 5.

You state the submitted information consists of information regarding ongoing negotiations relating to the contract for obtaining automated license plate readers. You state the negotiation is still pending and an agreement has not been signed or approved. Based on your representations and our review, we conclude the city has demonstrated the applicability of section 552.104 to the submitted information. Accordingly, we conclude the city may withhold the submitted information under section 552.104 of the Government Code. *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).³

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.

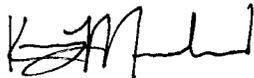
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

²We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

³As our ruling is dispositive, we need not address the arguments submitted by 3M and HD Protech.

[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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 539947

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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