



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2014

Mr. Matthew L. Grove
Assistant County Attorney
County of Fort Bend
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2014-21817

Dear Mr. Grove:

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# 547460.

The Fort Bend County Purchasing Department (the "county") received a request for the responses of the top two vendors for RFP 13-072, Design, Provide and Install Vinyl Bus Wraps for Public Transportation Buses. The county claims the requested information is excepted from disclosure under section 552.104 of the Government Code. The county also states, and provides documentation showing, it notified Mountain Commercial Graphics ("Mountain") and PF1 International Graphics, L.L.C., of the county's receipt of the request for information and of the right of each to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 received correspondence from Mountain objecting to the release of some of the information at issue. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Mountain has submitted information to this office it asserts is excepted from release under section 552.110 of the Government Code. However, the county did not submit this information for our review. This ruling does not address information beyond what the county has submitted to us for review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific

information requested). Accordingly, this ruling is limited to the information the county submitted as responsive to the request for information. *See id.*

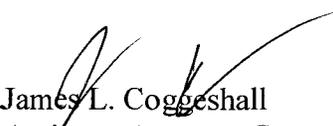
Section 552.104 of the Government Code excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." *Id.* § 552.104(a). The purpose of section 552.104 is to protect the purchasing interests of a governmental body in competitive bidding situations 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 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 submitted information was provided to the county in response to RFP 13-072. You explain all of the bids for this request for proposals were rejected and the county will solicit new bids for this project. You represent releasing the submitted information would undermine the county's ability to obtain more favorable offers in the future. Based on these representations and our review, we agree the county may withhold the submitted information under section 552.104 of the Government Code.¹

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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/cbz

¹As our ruling is dispositive, we do not address the other argument to withhold this information.

Ref: ID# 547460

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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