



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 31, 2018

Mr. Tad Fowler
Civil Division Chief
Office of the County Attorney
Potter County
500 South Fillmore Street, Room 301
Amarillo, Texas 79101

OR2017-26541A

Dear Mr. Fowler:

Our office issued Open Records Letter No. 2017-26541 (2017) on November 20, 2017. We have determined the prior ruling should be corrected. *See* Gov't Code §§ 552.306, .352. Accordingly, we hereby withdraw the prior ruling. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on November 20, 2017. *See generally id.* § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act")).

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# 695554 (PIC ID# ES&S).

Potter County (the "county") received a request for all documents pertaining to a specified request for proposals. You state you have released some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Dominion Voting Systems, Inc. ("Dominion") and Hart InterCivic ("Hart"). Accordingly, you state, and provide documentation showing, you notified Dominion and Hart of the request for information and of their right to submit arguments to this office as to why the information at issue 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 received arguments from Hart. We have considered the submitted arguments and reviewed the submitted information.

The County Purchasing Act, Local Government Code chapter 262, subchapter C, generally requires counties to make certain purchases using competitive bidding. Section 262.0295 provides an alternative multistep competitive proposal procedure. *See* Local Gov't Code § 262.0295. Section 262.0295(d) reads as follows:

Within 30 days after the date the unpriced proposals are opened under Subsection (c), the county official shall present the priced bids to the commissioners court. The award of the contract shall be made to the responsible offeror whose bid is determined to be the lowest and best evaluated offer resulting from negotiation. All proposals and bids that have been submitted *shall be available and open for public inspection after the contract is awarded.*

Id. § 262.0295(d) (emphasis added). The county represents the submitted proposal pertains to a contract that has been awarded in accordance with section 262.0295. Accordingly, pursuant to section 262.0295(d), the proposal is public and must be made available for inspection. *See id.* Although Hart raises section 552.104 of the Government Code, the exceptions to disclosure found in the Act do not generally apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Accordingly, the county must release the submitted information pursuant to section 262.0295(d) of the Local 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, 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/sb

Ref: ID# 695554

c: Requestor

2 Third Parties