



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 2, 2009

Ms. Leni Kirkman
University Health System
Corporate Communications & Marketing
Bexar County Hospital District
4502 Medical Drive
San Antonio, Texas 78229

OR2009-07512

Dear Ms. Kirkman:

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# 345303.

The Bexar County Hospital District d/b/a University Health System (the "system") received a request for thirteen categories of information related to Emergency Medical Services request for proposal RFP-28-10-098-SVC. You state that the system has released some responsive information. You also state that the system does not maintain any information responsive to portions of the request.¹ You claim that portions of the submitted information are excepted from disclosure under sections 552.104 and 552.111 of the Government Code. You also explain that the submitted information may contain third parties' proprietary information subject to exception under the Act. Accordingly, you have notified Americana Ambulance, Inc., ("Americana") and Acadian Ambulance Services, Inc., ("Acadian") of this request for information and of their right to submit arguments to this office explaining why the submitted information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exceptions you and Acadian claim and have reviewed the submitted information.

¹We note the Act does not require a governmental body to release information that did not exist at the time the request for information was received or create new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App. – San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

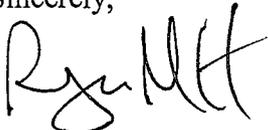
Section 552.104 of the Government Code protects from required public disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. The purpose of section 552.104 is to protect the purchasing interests of a governmental body in competitive bidding situations 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 awarded. *See* Open Records Decision No. 541 (1990).

The submitted information relates to a proposed contract for emergency medical services for unincorporated areas of Bexar County. You inform us that the proposed contract has not yet been executed. Based on your representations and our review, we conclude that release of the submitted information would harm the system's interests in a competitive bidding situation; thus, the system may withhold the submitted information under section 552.104 of the Government Code until a contract for these services is executed. *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 the expense of others and could be detrimental to the public interest in the contract under negotiation). Because our determination on this issue is dispositive, we need not address the remaining exceptions raised by you and Acadian.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/cc

Ref: ID# 345303

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

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