



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 19, 2009

Ms. Nancy Nelson  
Associate Vice President  
El Paso Community College  
P.O. Box 20500  
El Paso, Texas 79998-0500

OR2009-11642

Dear Ms. Nelson:

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# 355023.

The El Paso County Community College District (the "district") received a request for bid tabulations and awards for a specified project. You claim that the submitted 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 required 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 at 8 (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. Furthermore, section 552.104 does not protect information relating to competitive bidding situations once a contract has been awarded and is in effect. *See* Open Records Decision No. 541 at 4 (1990).

You state the submitted information relates to a current competitive sealed proposal (CSP #09-017A). You further state the contract has not yet been awarded. You claim releasing the information about another competitor's bid would give an advantage to the requestor in

the event re-bidding occurred. Based on your representations and our review, we conclude the district may withhold the submitted information under section 552.104 of the Government Code until such time as a contract has been 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 expense of others and could be detrimental to public interest in contract under negotiation).

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](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,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/rl

Ref: ID# 355023

Enc. Submitted documents

c: Requestor  
(w/o enclosures)