



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 2, 2012

Mr. Daniel O. Gonzalez  
For Coastal Bend Workforce Development Board  
Wood, Boykin & Wolter  
615 North Upper Broadway, Suite 1100  
Corpus Christi, Texas 78401-0748

OR2012-04732

Dear Mr. Gonzalez:

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# 449361.

The Coastal Bend Workforce Development Board (the "board"), which you represent, received a request for the "current financial integrity review including method current contractor has met 10% requirement." You explain the board does not maintain information responsive to the request for "method current contractor has met 10% requirement."<sup>1</sup> You claim 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 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

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *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), 563 at 8 (1990), 555 at 1–2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Decision No. 592 (1991) (statutory predecessor to section 552.104 designed to protect interests of governmental body in competitive situation, and not interests of private parties submitting information to government). 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). However, this office has determined in some circumstances section 552.104 may apply to information pertaining to an executed contract where the governmental body solicits bids for the same or similar goods or services on a recurring basis. *See id.* at 5.

You state the board previously posted requests for proposals for operations and management and child care services. You explain the requestor's employer and several other companies have submitted bids, and the board is in the process of evaluating those bids. However, you also explain the submitted information pertains to "the current contractor for the services being sought in the requests for proposals." Thus, we find the submitted information relates to a contract that has already been executed. Upon review, we find you have not demonstrated the submitted information pertains to the solicitation of bids for the same or similar goods or services on a recurring basis. Accordingly, we conclude the board may not withhold the submitted information under section 552.104 of the Government Code. As you raise no other exceptions to disclosure, the board must release the submitted information.

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, toll free at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/ag

Ref: ID# 449361

Enc. Submitted documents

c: Requestor  
(w/o enclosures)