



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 6, 2012

Mr. R. Brooks Moore  
Assistant General Counsel  
The Texas A&M University System  
301 Tarrow Street, 6<sup>th</sup> Floor  
College Station, Texas 77840-7896

OR2012-08630

Dear Mr. Moore:

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# 457706 (TAMU# 12-178).

The Texas A&M University (the "university") received a request for a specified consultant's report regarding dining services. 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 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 a governmental body's interests in competitive bidding situations. *See* Open Records Decision No. 592 (1991). Moreover, 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. Open Records Decision No. 541 at 4 (1990). This office has long held that section 552.104 does not except information relating to competitive bidding situations once a contract has been executed. *See, e.g.*, Open Records Decision Nos. 541 (1990), 514 (1988), 306 (1982), 184 (1978), 75 (1975).

You inform us the Texas A&M University System issued a request for proposals pertaining to the operation and management of campus dining services at the university. You state the

submitted information was prepared by an operations and strategic planning firm retained by the university to assess current operations and provide analysis and recommendations pertaining to the university's decision to award contracts for dining services. You further state a contract arising from that process has not yet been awarded or executed. You claim release of the information at issue would disadvantage the university in evaluating responses to the request for proposals and negotiating contracts for the most favorable terms possible. Based on your representations and our review, we conclude you have demonstrated the applicability of section 552.104 to the submitted information. Accordingly, the university 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, toll free at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/eb

Ref: ID# 457706

Enc. Submitted documents

c: Requestor  
(w/o enclosures)