



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 29, 2012

Ms. Neera Chatterjee  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701

OR2012-10054

Dear Ms. Chatterjee:

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# 457762 (OGC# 143086).

The University of Texas Health Science Center at Houston (the "university") received a request for the system's "current vendor's rate for [i]nterpretations [s]ervices." You claim that portions of the submitted information are excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have indicated some of the submitted information is not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the university is not required to release non-responsive information in response to this request.

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 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 (recognizing limited situation in which statutory predecessor to section 552.104 continued to protect information submitted by successful bidder when disclosure would allow competitors to accurately estimate and undercut future bids).

The information at issue relates to an existing contract executed by the university. However, you also state that although a request for proposals (“RFP”) for the same services covered by this contract was closed at the time of the request, the university has not yet executed contracts with the two winning bidders. You argue that “until the contracts are executed, release of the current rate information before that time would disadvantage the [u]niversity in obtaining a fair contract, not only should initial negotiations fail with the selected companies but also if the [u]niversity must move forward with another bidder.” Upon review of your arguments and the information at issue, we conclude you have demonstrated that public release of the information at issue would cause specific harm to the university’s interests in a particular competitive bidding situation. Thus, we conclude the information at issue may be withheld under section 552.104 of the Government Code until such time as the new contracts have been executed.

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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 457762

Enc. Submitted documents

c: Requestor  
(w/o enclosures)