



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 10, 2012

Mr. Fernando C. Gomez  
Vice Chancellor and General Counsel  
Texas State University System  
Thomas J. Rusk Building  
208 East 10<sup>th</sup> Street, Suite 600  
Austin, Texas 78701-2407

OR2012-10621

Dear Mr. Gomez:

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# 459206.

The Texas State University System (the "system") received a request for a list of the participants on the selection committee for a specified system RFP. The system claims the information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception the system claims 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. The purpose of section 552.104 is to protect a governmental body's interests in competitive bidding situations, including where the governmental body may wish to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 at 8 (1991) (statutory predecessor to section 552.104 designed to protect interests of governmental body). 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).

The system states the information pertains to an open bid and the selection process and contract negotiations have not been completed. Based on this representation and our review, we conclude the system has demonstrated release of the information could harm its interests with respect to this project. Accordingly, we conclude the system may withhold the 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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/bs

Ref: ID# 459206

Enc. Submitted documents

c: Requestor  
(w/o enclosures)