



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 26, 2012

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

OR2012-11625

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# 460374 (OGC#s 143559, 143786, and 143788).

The University of Texas System (the "system") received three requests for the system's current Hazardous Waste Management and Disposal Service contract and associated pricing information. 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 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 submitted information consists of a contract executed by the system. However, you inform us this information relates to a current request for proposals ("RFP") for the same services covered by the information at issue. You state the bidding process for this RFP is ongoing and a winning bidder has not yet been selected. You argue that because this bidding process ends only when a final executed contract is in place, release of the submitted information before that time would disadvantage the system in obtaining a fair contract. Based on your representations and our review, we find you have demonstrated the public release of this information would cause specific harm to the system's interests in a particular competitive bidding situation. Thus, we conclude the submitted information may be withheld under section 552.104 of the Government Code until a new contract is 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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/dls

Ref: ID# 460374

Enc. Submitted documents

c: 3 Requestors  
(w/o enclosures)