



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

August 3, 2012

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

OR2012-12138

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# 464865 (TAMU # 12-002).

The Texas A&M University System (the "system") received a request for the evaluation sheets related to RFP# 557-12-1-Laboratory Information Management System. 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 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 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).

You state the contract for this bid has not been awarded, and the release of the requested information before the selection of a vendor could harm the system's ability to negotiate the most favorable final agreement. 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 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,



Jenny Mai  
Assistant Attorney General  
Open Records Division

JM/eb

Ref: ID# 464865

Enc. Submitted documents

c: Requestor  
(w/o enclosures)