



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 10, 2012

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2012-16213

Dear Ms. McGowan:

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# 467608 (ORR# 11369).

The Dallas Independent School District (the "district") received a request for all proposals, except for the requestor's company's proposal, submitted in response to request for proposals ("RFP") GK203853 for an enterprise resource planning ("ERP") management system. You claim the requested information is excepted from disclosure under section 552.104 of the Government Code. You also believe the information implicates the interests of third parties. You inform us the interested parties were notified of the request for information and of their right to submit arguments to this office as to why the information should not be released.¹ See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exception you claim and reviewed the information you submitted.

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

¹You inform us the interested parties are AST Corporation, Harris School Solutions, Lawson Software, Inc., Microsoft Corporation, Protiviti, Inc., Skyward, Inc., ST Tech Inc., and Tyler Technologies.

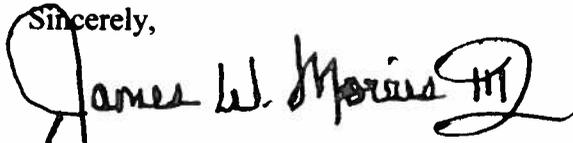
purpose of this exception is to protect a governmental body's interests in competitive bidding and certain other competitive situations. *See* Open Records Decision No. 592 (1991). Section 552.104(a) requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a competitor will gain an unfair advantage will not suffice. *See* Open Records Decision No. 541 at 4 (1990). Section 552.104(a) does not protect information related to competitive bidding situations once a contract has been awarded and is in effect. *See* Open Records Decision Nos. 306 (1982), 184 (1978).

You state the district issued an RFP for an ERP management system. You explain the district has rejected all the submitted bids and is determining whether to conduct a rebidding of the RFP. You contend release of the submitted information at this time would jeopardize the district's bargaining position when the RFP is rebid. Based on your representations, we conclude the district may withhold the submitted information under section 552.104(a) of the Government Code. We note this information may no longer be withheld under section 552.104(a) once the bidding process has concluded and a contract is in effect.

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, 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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large initial "J" and a stylized "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bhf

Ref: ID# 467608

Enc: Submitted documents

c: Requestor
(w/o enclosures)

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