



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2012

Ms. Jessica Perez Gomez
For Canutillo Independent School District
Blanco, Ordoñez, Mata, & Wallace, P.C.
5715 Cromo Drive
El Paso, Texas 79912

OR2012-19727

Dear Ms. 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# 473615.

The Canutillo Independent School District (the "district"), which you represent, received a request for twenty-six categories of information pertaining to RFQ #12-02. You state the district has released information responsive to the fifth category of the request, which seeks "[a]ll minutes (including audio recordings) or notes of meetings in which RFQ #12-02 was discussed." You claim the submitted information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

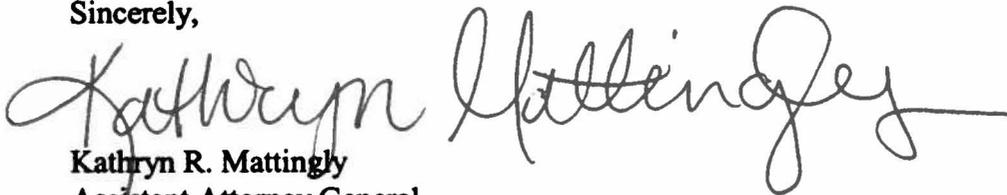
Section 552.104 of the Government Code protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." Gov't Code § 552.104. The purpose of section 552.104 is to protect the purchasing interests of a governmental body in competitive bidding situations where the governmental body wishes to withhold information in order to obtain more favorable offers. *See Open Records Decision No. 592 (1991)*. 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 awarded. *See Open Records Decision No. 541 (1990)*.

You inform us the district is currently negotiating with two firms for different areas of work under the RFQ; the district is negotiating with one firm regarding commissioning services and with another firm regarding soils and material testing, geotechnical testing, archeological surveys, and environment assessments. You assert release of the information at issue would harm the district's negotiating position regarding these two firms or any other firms the district may negotiate a contract with in regards to the RFQ at issue. You further inform us the district has not executed a final contract with either of these firms. Based on your representations, we conclude the district may withhold the information at issue 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 the expense of others and could be detrimental to public interest in the contract under negotiation). As we are able to make this determination, we need not address your remaining argument against disclosure.

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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/dls

Ref: ID# 473615

Enc. Submitted documents

c: Requestor
(w/o enclosures)