



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 29, 2013

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

OR2013-12994

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# 494528 (Dallas ISD ORR No. 12104).

The Dallas Independent School District (the "district") received a request for rating sheets, evaluation forms, selection committee comments, and submitted proposals related to request for proposals ("RFP") number TF-204027. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. In addition, you state the release of the submitted information may implicate the proprietary interests of third parties. You inform us the interested parties were notified of the request for information and of each company's right to submit arguments to this office as to why the information should not be released.<sup>1</sup> 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 received comments from The Princeton Review ("Princeton") and ReadyToWork ("RTW"). We have considered the submitted arguments and reviewed the submitted information.

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<sup>1</sup>The interested third parties are: Academic Success Program; Communities in Schools of the Dallas Region, Inc.; Education is Freedom Foundation; The Princeton Review; ReadyToWork; Relevant Knowledge, Inc.; and Wings to Soar.

Section 552.104 of the Government Code excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." 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). 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 district issued an RFP for a high school college access program. You explain the district has rejected all the submitted bids and will re-issue the bid solicitation. You contend release of the submitted information at this time would jeopardize the district's bargaining position when rebidding the RFP and negotiating with the successful bidder or bidders. Based on your representations, we conclude the district may withhold the submitted information under section 552.104(a) of the Government Code.<sup>2</sup>

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/tch

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<sup>2</sup>As our ruling is dispositive, we need not address the arguments submitted by Princeton or RTW.

Ref: ID# 494528

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Neel Gonuguntla  
President  
ReadyToWork  
7441 Marvin D. Love, Suite 208  
Dallas, Texas 75237  
(w/o enclosures)

Ms. Diana Wainrib  
Senior Counsel  
The Princeton Review  
111 Speen Street, Suite 550  
Framingham, Massachusetts 01701  
(w/o enclosures)

Ms. Marcia Page  
President & CEO  
Education is Freedom Foundation  
Suite 2070, LB 18  
2711 North Haskell Avenue  
Dallas, Texas 75204  
(w/o enclosures)

Ms. Sandra G. Chavarria  
President & CEO  
Communities in Schools of the Dallas  
Region, Inc.  
8700 North Stemmons Freeway, Suite 125  
Dallas, Texas 75247-3729  
(w/o enclosures)

Ms. Tracie Reed  
Executive Director  
Relevant Knowledge, Inc.  
4722 Meadow Street, #1504  
Dallas, Texas 75215  
(w/o enclosures)

Ms. Diane Pou Wilcox  
Owner  
Wings to Soar  
6329 Glennox Lane  
Dallas, Texas 75214  
(w/o enclosures)

Ms. Sara E. Miller  
Chief Operating Officer  
Academic Success Program  
12200 Ford Road, Suite 350  
Dallas, Texas 75234  
(w/o enclosures)