



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2013

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

OR2013-18626

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# 503515 (Dallas ORR No. 12343).

The Dallas Independent School District (the "district") received a request for information related to request for proposals GK-203853 (the "RFP").¹ 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. Accordingly, you inform us you notified AST Corporation and Tyler Technologies of the request for information and of their right to submit arguments to this office as to why the information should not be released. *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 submitted representative sample of information.²

¹We note the district sought and received clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the

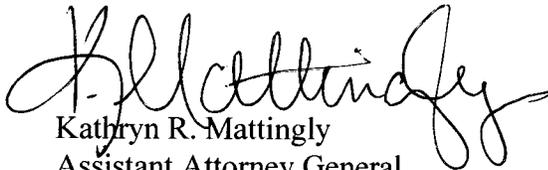
Section 552.104 of the Government Code exempts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The purpose of this exception is to protect a governmental body's interests in competitive bidding and certain other competitive situations. *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 the RFP for an enterprise resource planning ("ERP") management system. You explain the contract was not awarded and the district is reviewing whether or not to re-issue the RFP. You contend release of the requested information at this time would jeopardize the district's bargaining position in future contract negotiations. Based on your representations, we conclude the district may withhold the requested 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.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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/tch

extent those records contain substantially different types of information than that submitted to this office.

Ref: ID# 503515

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Pravin Kumar
President
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1755 Park Street, Suite 100
Naperville, Illinois 60563
(w/o enclosures)

Mr. Richard E. Peterson, Jr.
President
ERP and School Division
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5949 Sherry Lane, Suite 1400
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