



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 13, 2013

Dr. Fernando C. Gomez
Vice Chancellor and General Counsel
The Texas State University System
108 East 10th Street, Suite 600
Austin, Texas 78701-2407

OR2013-19762

Dear Dr. 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# 505698.

Texas State University (the "university") received a request for the bid tabulations and dollar amount awarded for the previous request for proposals for fire extinguisher inspections and maintenance. You claim 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 required public disclosure "information that, if released, would give advantage to a competitor or bidder." 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 information pertaining to a completed bidding process for which a contract has been executed. *See* Open Records Decision No. 541 (1990). However, this office has determined in some circumstances section 552.104 may apply to information pertaining to an executed contract where the governmental body solicits bids for the same or similar goods or services on a recurring basis. *See id.* at 5 (recognizing limited situation in which statutory predecessor

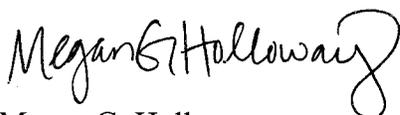
to section 552.104 continued to protect information submitted by successful bidder when disclosure would allow competitors to accurately estimate and undercut future bids); see also Open Records Decision No. 309 (1982) (suggesting that such principle will apply when governmental body solicits bids for same or similar goods or services on recurring basis).

You inform us that at the time of the instant request, the university was seeking bids for a new request for proposals for fire extinguisher services. You state that because the new request for proposals is for the same services as the previous request for proposals, release of the submitted information at this time would place the university at a disadvantage in obtaining fair proposals for the new contract. Based on your representations and our review, we determine the university has demonstrated that release of the submitted information would harm its interests in a competitive situation. Accordingly, the university may withhold the submitted information under section 552.104 of the Government Code until the new contract is executed.

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,



Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/dls

Ref: ID# 505698

Enc. Submitted documents

c: Requestor
(w/o enclosures)