



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 20, 2013

Ms. Valerie Coleman-Ferguson  
Associate General Counsel  
University of Houston System  
311 E. Cullen Building  
Houston, Texas 77204-2028

OR2013-22234

Dear Ms. Coleman-Ferguson:

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# 509268.

The University of Houston (the "university") received a request for the names of all vendors who responded to a specified RFP and the proposals submitted. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code.<sup>1</sup> You further state the proprietary interests of Blackboard, Inc., Educational Computer Systems, Inc. ("ECSI"), Higher One, and US Bank might be implicated by the requests. Accordingly, you notified the affected third parties of the request and of their right to submit arguments to this office explaining why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received arguments submitted by ECSI and Higher One. We have considered the submitted arguments and reviewed the submitted information.

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. The purpose of section 552.104 is to protect a governmental body's interests in competitive

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<sup>1</sup>We note that although you claim the submitted information is excepted from disclosure under section 552.305 of the Government Code, section 552.305 is not an exception to disclosure; instead, it permits a governmental body to decline to release information for the purpose of requesting an attorney general decision if it believes that a person's privacy or property interests may be involved. Gov't Code § 552.305(a); Open Records Decision No. 542 at 1-3 (1990) (discussing statutory predecessor).

bidding situations, including where the governmental body may wish to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 at 8 (1991) (statutory predecessor to section 552.104 designed to protect interests of governmental body). 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 submitted information consists of proposals submitted in response to a request for proposals for student refund management services issued by the university. You state the bidding process is not complete and a final contract for student refund management services has not been executed or taken effect. Based on your representations and our review, we conclude the university has demonstrated the applicability of section 552.104 to the submitted information. Accordingly, we conclude the university may withhold the submitted information under section 552.104 of the Government Code. *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 expense of others and could be detrimental to public interest in contract under negotiation).<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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/dls

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<sup>2</sup>As our ruling is dispositive, we need not address the arguments submitted by ECSI and Higher One.

Ref: ID# 509268

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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