



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 5, 2014

Mr. W. Montgomery Meitler
Senior Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2014-07501

Dear Mr. Meitler:

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# 521679 (TEA PIR# 21364).

The Texas Education Agency (the "agency") received a request for the names of the external reviewers who reviewed a specified application to receive an open-enrollment charter. 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 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 certain competitive situations. *See* Open Records Decision No. 592 (1991). Section 552.104 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 does not protect information relating to competitive situations once a contract has been awarded. *See* Open Records Decision Nos. 306 (1982), 184 (1978).

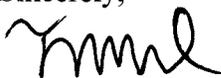
You contend the submitted information is related to competition for open-enrollment charters. You inform us that under section 12.101(b) of the Education Code, the State Board of Education is authorized to grant up to 215 open-enrollment charters. You inform us, at

this time, only 205 open-enrollment charters are currently considered active, thus, ten charters will be available to be awarded in the next application cycle, Generation 19. You explain that winning an open-enrollment charter makes both state and federal funds available to a charter holder, including federal start-up funds, state aid, and federal grant funds. You state the agency utilizes a panel of external reviewers to examine and score charter applications. You state the agency intends to use the current group of external reviewers for the next charter application cycle. You state that public disclosure of the identities of the external reviewers could result in applicants altering their applications or attempt to influence the external reviewers. You state release of the submitted information would impair the competitive aspect of the next generation application process, grant potential applicants a significant and unfair advantage over their competition, and hinder the agency's ability to receive the best possible charter applicants. Based on your representations, we conclude the agency may withhold the submitted information at this time under section 552.104 of the Government Code. We note the agency may no longer withhold the information on this basis once the available charters have been awarded.

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 521679

Enc. Submitted documents

c: Requestor
(w/o enclosures)