



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 16, 2014

Ms. Ana Vieira  
Attorney and Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2014-18669

Dear Ms. Vieira:

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# 539625 (U.T. OGC # 157443).

The University of Texas at El Paso (the "university") received a request for responses and related documentation and communications regarding the university's Request for Proposal No. 724-1403-WEJBT for Computerized Ticketing Platform Services. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state the release of some of the submitted information may implicate the interests of third parties. Accordingly, you state, and provide documentation demonstrating, the university notified DBC Tickets, Inc.; Etix; IMG Tickets; Ticketmaster; and TicketsWest of the request for information and of their right to submit arguments stating 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); 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 comments

from TicketsWest. We have considered the submitted arguments and reviewed the submitted information, some of which you state constitutes a representative sample.<sup>1</sup>

Section 552.104 of the Government Code exempts 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 exempt bids from disclosure after bidding is completed and the contract has been executed. *See* Open Records Decision No. 541 (1990).

You state, although the bidding process has closed, contract negotiations are ongoing and the final agreement has not been executed. Thus, you assert the release of the information at issue before a final contract has been executed would disadvantage the university in obtaining a fair contract should initial negotiations fail. Based on your representations and our review, we conclude the university has demonstrated how release of the information at issue 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 contract is executed.<sup>2</sup> *See* Open Records Decision No. 170 at 2 (1977) (release of bids while negotiation of proposed contract is underway could necessarily result in advantage to certain bidders at expense of others and could be detrimental to public interest in contract under negotiation).

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

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<sup>1</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. *See* Gov’t Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

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

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/akg

Ref: ID# 539625

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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