



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 7, 1997

Dr. Jerome H. Supple  
President  
Southwest Texas State University  
601 University Drive  
San Marcos, Texas 78666-4615

OR97-1775

Dear Dr. Supple:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 108052.

Southwest Texas State University (the "university") received a request for information related to the university's plans to lease the university-owned Pepper's at the Falls Restaurant to a private business. You state that the university has released two of the items of information requested, but assert that a third item of information is excepted from disclosure pursuant to sections 552.104 and 552.111 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Section 552.104 protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." Section 552.104 is generally invoked to except information relating to competitive bidding situations involving specific commercial or contractual matters. Open Records Decision No. 463 (1987). Governmental bodies may withhold bid information while governmental officials are in the process of evaluating the proposals and asking competitors to clarify their bids. Open Records Decision No. 170 (1977). Section 552.104 does not, however, except bids or proposals from disclosure once the bidding is over and the contract is in effect. Open Records Decision Nos. 306 (1982); 184 (1978).

You inform this office that the university is currently negotiating with bidders for the lease of the restaurant and that no contract has been awarded. You further state that the university is seeking to clarify bids and bidders remain at liberty to furnish additional information. Upon review of the information submitted and the facts presented, we conclude that the university may withhold the requested information under section 552.104.<sup>1</sup>

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<sup>1</sup>As we resolve your request under section 552.104, we need not address your section 552.111 argument.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/ch

Ref.: ID# 108052

Enclosures: Submitted documents

cc: Mr. Mike Moore  
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(w/o enclosures)