



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 2, 2009

Mr. Fortunato G. Paredes
Escamilla & Poneck, Inc.
Attorney for The Mathis Independent School District
216 West Village Boulevard, Suite 202
Laredo, Texas 78041

OR2009-15533

Dear Mr. Paredes:

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# 360010.

The Mathis Independent School District (the "district"), which you represent, received two requests for the subcontractor list of the winning bidder on a specified bid. One of the requestors also requested the district's final rankings on the bid. You claim that 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 protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." Gov't Code § 552.104. 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). This exception protects information from public disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* ORD 463. Section 552.104 generally does not except bid information from disclosure once the bidding is over and the contract is executed. Open Records Decision Nos. 306 (1982), 184 (1978).

Although you state that a tentative award for the bid has been made, you further state that no contract has been executed between the district and the winning bidder. You assert release of the submitted information could harm the district's bargaining position should the

current negotiations fail. Based on your representations, we conclude that the district may withhold the submitted information under section 552.104 of the Government Code until such time as a contract has been executed. *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 the expense of others and could be detrimental to the public interest in the 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eb

Ref: ID# 360010

Enc. Submitted documents

c: Requestor
(w/o enclosures)