



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 22, 2011

Ms. Jenny Urquhart
Assistant General Counsel
The University of North Texas
1155 Union Circle #310907
Denton, Texas 76203

OR2011-08929

Dear Ms. Urquhart:

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# 421673 (UNT PIR No. 11-082).

The University of North Texas (the "university") received a request for the final bid tabulation, the references for the bid awardee, and a copy of the bid awardee's bid submission for request for proposal RFP752-12-732-PB. You claim that the requested information is excepted from disclosure under section 552.104 of the Government Code. You also state that release of some of the requested information may implicate the proprietary interests of Contemporary Services Corporation ("Contemporary"). Accordingly, you provided notice to Contemporary of the request and its right to submit arguments to this office explaining why its 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). We have considered the exception you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the requestor and by Contemporary. *See* Gov't Code

¹This 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).

§ 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Initially, we address the comments submitted by the requestor. The requestor states that the university failed to timely respond to the request for information sent by the requestor to the university via e-mail on March 28, 2011. We note the Act requires that a request for public information sent by electronic mail be submitted to the officer for public information or that person's designee. *Id.* § 552.301(c). Upon review of the communications, we determine that the request for information was not sent by the requestor to the university's public information officer or the officer's designee. *See id.* (stating that a written request includes a request in writing that is sent to the officer for public information, or the person designated by that officer, by e-mail or facsimile). Instead, as the university explains and the submitted e-mail communication string demonstrates, the request was forwarded by a university employee to the university's public information officer on April 18, 2011. Thus, for the purposes of calculating the university's response deadlines, we find that the university did not receive the request for information until April 18, 2011, and therefore did not violate the procedural requirements of section 552.301 of the Government Code in requesting a decision from our office. *See generally, id.* § 552.301 (enumerating the responsibilities a governmental body incurs upon receipt of a written request for information that it wishes to withhold). Accordingly, we will address the university's claim under section 552.104 against disclosure of the information at issue.

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

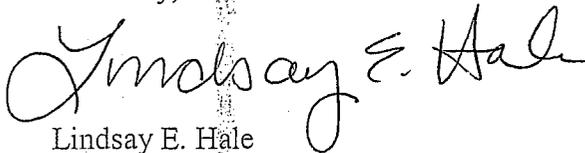
You state that although the university has selected a vendor, the university "is in an ongoing negotiation with that vendor and has not formally finalized a contract with any vendor" regarding the request for proposal at issue. You assert disclosure of the requested information would give an advantage to other bidders who may still be able to submit additional information, which could harm the university's ability to acquire high quality services at the lowest possible cost. 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

information at issue under section 552.104 of the Government Code until the contract is executed.²

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/em

Ref: ID# 421673

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. James H. Service
Vice President and General Counsel
Contemporary Services Corporation
17101 Superior Street
Northridge, California 91325
(w/o enclosures)

²As our ruling is dispositive, we need not address Contemporary's arguments under section 552.110 of the Government Code.