



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 31, 2013

Ms. Sandra Poel
Senior Contracts Paralegal & Public Information Coordinator
Texas Guaranteed Student Loan Corporation
P.O. Box 83100
Round Rock, Texas 78683-3100

OR2013-01802

Dear Ms. Poel:

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# 477657.

The Texas Guaranteed Student Loan Corporation ("TG") received a request for all proposals submitted for 403(b) Plan Services, including any best and final proposals and anything submitted in addition to or as part of the proposal, any exhibits submitted as part of or in addition to the proposal, any materials submitted as part of final presentations, and summary and award material prepared for TG, including but not limited to response evaluation and vendor recommendation. You claim that the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. You also state the release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified BMO Retirement Services, a part of BMO Financial Group, Edward Jones, and Nationwide Investment Services Corporation of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances).* We have considered the exceptions you claim and reviewed the submitted information.

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

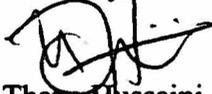
governmental body in competitive bidding situations where the governmental body wishes to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 (1991). Section 552.104 protects information from disclosure if the governmental body demonstrates potential harm 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 the information at issue consist of proposals submitted by third party vendors regarding 403(b) Plan Services and TG's evaluation and scoring documents for the proposals. You state the proposals are subject to review and approval by TG's board of directors and that TG's board of directors has not yet awarded a contract to any of the bidders. You argue that release of the submitted information would place TG in a weak negotiating position. Based on these representations and our review, we conclude TG has demonstrated release of the submitted information would harm its interests in a particular competitive situation. Accordingly, TG 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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/dls

Ref: ID# 477657

Enc. Submitted documents

**c: Requestor
(w/o enclosures)**

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