



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 17, 2013

Mr. Ross Laughead
General Counsel
District Office of Legal Services
Alamo Colleges
201 West Sheridan, Building C-8
San Antonio, Texas 78204-1429

OR2013-06297

Dear Mr. Laughead:

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# 484282.

The Alamo Community College District (the "district") received a request for information regarding CSP No. 12A-0028, including all submitted proposals with the exception of the requestor's company's proposal and formal ranking documentation from the proposal committee evaluation meetings.¹ You claim the submitted information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified Follett Higher Education Group, Inc.; Nebraska Book Company, Inc. d/b/a NEEBO; and Texas Book Company 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 submitted arguments 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

¹You state the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

§ 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 claim the submitted information is excepted from disclosure under section 552.104. You state, although the district's board of trustees has chosen a winning bidder for CSP No. 12A-0028, as of the date the district received the instant request, the contract with the winning bidder had not been negotiated or signed. Thus, you state "the selection process is not complete and it is possible that negotiations could begin with the second place vendor or [the district] could re-advertise seeking new proposals with the same or revised criteria[.] You assert disclosing the requested information at this time would give competitors an unfair advantage. Based on your representations and our review, we conclude the district has demonstrated release of the information at issue would harm its interests in a competitive situation. Accordingly, the district 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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/bhf

²As our ruling is dispositive, we need not address the remaining arguments against disclosure.

Ref: ID# 484282

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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