



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 28, 2014

Ms. Cynthia Tynan
Attorney and Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701

OR2014-09115

Dear Ms. Tynan:

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# 524221 (OGC #155050).

The University of Texas System (the "system") received a request for "all open records" between the system and Accenture, LLP ("Accenture") related to a specified project. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state, and provide documentation showing, you notified Accenture of the request for information and of its 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 received comments from Accenture. 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 § 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) (statutory predecessor to section 552.104 designed to protect

interests of governmental body in competitive situation, and not interests of private parties submitting information to government). 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 the submitted information relates to Accenture's submission for a specified request for proposals. You state a winning bidder has been selected, but no contract has been executed. You further state release of the submitted information before the contract has been executed would give an advantage to a competitor or bidder and disadvantage the system in obtaining a fair contract should negotiations fail. Based on your representations and our review, we agree the system 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 underway 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).¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

¹As our ruling is dispositive, we need not address Accenture's arguments against disclosure of the submitted information.

Ref: ID# 524221

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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c/o Mr. Peter Eyre
Crowell & Moring, LLP
1001 Pennsylvania Avenue, NW
Washington, D.C. 20004-2595
(w/o enclosures)