



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 31, 2014

Ms. Patricia Guidry  
Director of Risk Management  
Aldine Independent School District  
14910 Aldine-Westfield Road  
Houston, Texas 77302-3099

OR2014-13297

Dear Ms. Guidry:

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# 532514.

The Aldine Independent School District (the "district") received a request for vendor responses and evaluation documents of a specified request for proposal. You state you have released some information. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.104 of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. The purpose of section 552.104 is to protect a governmental body's interests in competitive bidding situations, including where the governmental body may wish to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 at 8 (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 district issued a request for proposals for an Enterprise Level Learning Management System and the proposals were returned on April 1, 2014. Although an award was made, you state the awarded vendor was unable to fulfill the requirements of the

proposal. You state the district's board of trustees rescinded the award and approved a re-issuing of the request for proposal. You further state the re-issued request for proposal is not yet complete. You explain release of the submitted information would harm the district's bargaining position with respect to the re-issued request for proposal by hindering the district's ability to obtain the lowest price and most favorable terms. Based on your representations and our review, we conclude the district has demonstrated release of the submitted information could harm its competitive interests with respect to this project. Therefore, the district may withhold the submitted information under section 552.104 of the Government Code until such time as a contract has been executed.<sup>1</sup> 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 expense of others and could be detrimental to public interest in 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/bhf

Ref: ID# 532514

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.