



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 19, 2015

Ms. Sandra Garcia
Assistant General Counsel
Office of General Counsel
Houston Community College
P.O. Box 667517
Houston, Texas 77002

OR2015-09723

Dear Ms. Garcia:

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# 564131.

Houston Community College (the "college") received a request for the appraisals of specified properties.¹ You state the college has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.105 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

¹We note the college sought and received clarification of the request for information. *See* Gov't Code §552.222(b) (stating that if information requested is unclear to governmental body or if a large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

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 explain the submitted information relates to a competitive bidding process for the sale of two specified pieces of real property by the college. You state the college intends to sell the two properties in accordance with the requirements of chapter 272 of the Texas Local Government Code, but the bid packages are not complete, no winning bidder has been selected, no purchase contracts are in place, and the competitive bidding process was not complete when the college received the request. You also argue release of the information would give the bidders a competitive advantage over the college because it would impair the college's ability to negotiate the best price for the properties. Based on these representations and our review, we conclude the college has demonstrated release of the information at issue could harm its interests in a competitive situation. Thus, the college may withhold the submitted information under section 552.104 of the Government Code until such time as a contract has been executed.² *See* Open Records Decision No. 170 at 2 (1977) (release of bids while negotiation of proposed contract is in progress would necessarily result in 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, 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

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 564131

Enc. Submitted documents

c: Requestor
(w/o enclosures)