



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 11, 2015

Ms. Sandra D. Garcia
Assistant General Counsel
Houston Community College
3100 Main Street
Houston, Texas 77002

OR2015-11519

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# 566994.

Houston Community College (the "college") received a request for electronic correspondence between college administrators and Tesla Motors concerning a specified property and specified letters of intent.¹ You state you have released some 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 information you have submitted.

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

¹You state the college sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing 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 when governmental entity, acting in good faith, requests clarification or narrowing of unclear or over-broad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

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).

The college states it is in the process of leasing portions of a specified property it owns. The college states the negotiating process is ongoing as it receives and considers letters of intent from current and prospective tenants. The college explains the letters of intent are used in the negotiating process and release of this information will cause specific competitive harm to the college because it would hamper the college's ability to receive favorable offers. Based on these representations and our review, we conclude the college has demonstrated release of the submitted information could harm its interests with respect to the property at issue. 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 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, 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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/som

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

Ref: ID# 566994

Enc. Submitted documents

c: Requestor
(w/o enclosures)