



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 1, 2015

Ms. Karen K. Vance  
Lone Star College System  
5000 Research Forest Drive  
The Woodlands, Texas 77381-4356

OR2015-13231

Dear Ms. Vance:

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# 569557 (LSCS File Nos. PR15-00408-00091 and 00094).

The Lone Star College System (the "system") received two requests from two different requestors for the system's most recent contract for hazardous waste disposal services and the six most recent invoices received by the system for waste disposal services. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of the requested information may implicate the proprietary interests of Veolia Environmental Services ("Veolia"). You state, and provide documentation showing, you have notified Veolia of this request for information and of its right to submit arguments to this office as to why its information should not be released. See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exception you claim and reviewed the submitted information.

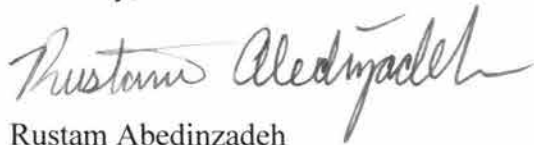
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, No. 12-1007, slip op. at 17 (Tex. June 19, 2015). We understand the system previously awarded a contract to Veolia for hazardous waste disposal waste services. You state the system issued a new request for proposals for waste disposal services and is currently in negotiations with the preferred vendors. You explain releasing the submitted information before entering into a contract with the preferred vendors would disadvantage the system's negotiation position when a new request for proposals is needed for these same

services. You further explain, in the event an agreement is not reached and contracts are not signed by each party, the request for proposals may be issued for another bid process. Based on these representations and our review, we conclude the system has established the release of the information at issue would give an advantage to a competitor or bidder. Thus, the system may withhold the submitted information under section 552.104 of the Government Code. *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,



Rustam Abedinzadeh  
Assistant Attorney General  
Open Records Division

RA/dls

Ref: ID# 569557

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

Mr. David Michaelis  
Veolia ES Technical Solutions, L.L.C.  
1800 South Highway 146  
Baytown, Texas 77520  
(w/o enclosures)