



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 14, 2015

Mr. James R. Rodgers
Counsel For Red River County Hospital Authority
The Moore Law Firm, L.L.P.
100 North Main Street
Paris, Texas 75460-4222

OR2015-09407

Dear Mr. Rodgers:

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# 563527.

The Red River County Hospital Authority (the "authority"), which you represent, received a request for 1) minutes of meetings for 2013 and 2014; 2) financial reports for 2013 and 2014; 3) the original proposal of Essent Healthcare - Paris, Inc., d/b/a Paris Regional Medical Center ("Paris"); and 4) the lease term proposal from Paris. You state the authority will provide some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, 552.110, and 552.131 of the Government Code. Additionally, you state you notified Paris 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 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).

The authority states it has entered into negotiations with Paris and other entities for the lease of a hospital building owned by the authority. The authority states negotiations are ongoing, and the release of the submitted information would give an advantage to other entities seeking to lease the hospital premises. Based on these representations and our review, we conclude the authority has demonstrated release of the submitted information could harm its interests with respect to this project. Thus, the authority may withhold the submitted information under section 552.104 of the Government Code until such time as a contract has been executed.¹ *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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLK/cz

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure.

Ref: ID# 563527

Enc. Submitted documents

c: Requestor
(w/o enclosures)