



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 28, 2015

Ms. Lauren Downey
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2015-18040

Dear Ms. Downey:

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# 577414 (OAG PIR No. 15-41696).

The Office of the Attorney General (the "OAG") received a request for correspondence between the OAG and federal agencies related to the TXCSES 2.0 system, also known as the T2 initiative. You state the OAG will release some of the requested information. You claim some of the remaining requested information is excepted from disclosure under sections 552.104 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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, 2015 WL 3854264, at *9 (Tex. June 19, 2015). You state the information you have marked under section 552.104 pertains to active procurements by the

¹This letter ruling assumes the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent the other information is substantially different than that submitted to this office. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

OAG's Child Support Division (the "CSD") for multiple services pertaining to its new automated child support enforcement system, the T2 initiative. You state the information you have marked consists of the amount of money requested from the federal Office of Child Support Enforcement, and budgeting information pertaining to the active procurements. You contend release of this information would allow bidders to bid up to the maximum amount the OAG has received or budgeted for these procurements. After review of the information at issue and consideration of the arguments, we find the OAG has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the OAG may withhold the information you have marked under section 552.104(a).

Section 552.139 of the Government Code provides, in part:

- (a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.
- (b) The following information is confidential:

...

- (2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(2). As previously noted, you state the CSD is implementing a new automated child support enforcement system, the T2 initiative. You state the submitted information consists of the most recent Annual Advance Planning Document Update submitted to the federal Office of Child Support by the CSD pursuant to part 45, subpart F, section 95.611 of the Code of Federal Regulations. You explain the marked portions of the submitted report relate to computer network security and reveal the potential vulnerabilities in the system's design, operation, or defense. Based on these representations and our review of the information, we find the OAG has demonstrated the information you marked relates to computer network security; the design, operation, or defense of a computer network; or an assessment of the extent to which software of a contractor of a governmental body is vulnerable to unauthorized access or harm. Accordingly, the OAG must withhold the information you marked under section 552.139.

In summary, the OAG may withhold the information you have marked under section 552.104(a) of the Government Code. The OAG must withhold the information you have marked under section 552.139 of the Government Code. The OAG must release the remaining information.

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

KLG/cz

Ref: ID# 577414

Enc. Submitted documents

c: Requestor
(w/o enclosures)