



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 23, 2015

Mr. Vance Hinds
Assistant County & District Attorney
County of Ellis
Ellis County & District Attorney's Office
Ellis County Courts Building
109 South Jackson
Waxahachie, Texas 75165

OR2015-22295

Dear Mr. Hinds:

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# 584208.

The Ellis County Judge's Office and the Ellis County Purchasing Office (collectively, the "county") received two requests from different requestors for all responses to request for proposals number 2015-001. You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, 552.110, 552.136, and 552.137 of the Government Code. Additionally, you inform us release of the submitted information may implicate the proprietary interests of Acadian Ambulance Service of Texas, L.L.C.; Bluebird Medical d/b/a Allegiance Ambulance; American Medical Response Ambulance Service d/b/a American Medical Response ("AMR"), and Careflite. Accordingly, you state, and provide documentation showing, you notified these third parties of the requests for information and of their rights 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(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, 466 S.W.2d 831 (Tex. 2015). You represent the submitted information pertains to a competitive bidding situation. In addition, you state AMR was selected for a contract. However, you also state the county is in the contract negotiation phase of the request for proposals process with AMR. You explain that if the county is unable to negotiate a contract with AMR within a reasonable amount of time, the county may open contract negotiations with another bidder. Thus, you assert if the information at issue is released, it could affect the ability of the county to negotiate the specific terms of the contract. After review of the information at issue and consideration of the arguments, we find the county has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the county may withhold the submitted information under section 552.104(a) of the Government Code.¹

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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/cbz

Ref: ID# 584208

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

¹As our ruling is dispositive, we need not consider your remaining arguments against disclosure of this information.

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