



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 17, 2015

Ms. Leslie O. Haby
Assistant Criminal District Attorney
Civil Section
County of Bexar
101 West Nueva Street, Seventh Floor
San Antonio, Texas 78205

OR2015-24176

Dear Ms. Haby:

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# 587897.

The Bexar County District Attorney's Office (the "district attorney's office") received a request for all responses, and their evaluations, to a request for proposal for a records management system. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Interact; Motorola Solutions, Inc.; New World Systems; Niche Technology; and, Tiburon, Inc. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their 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 submitted arguments and reviewed the submitted information.

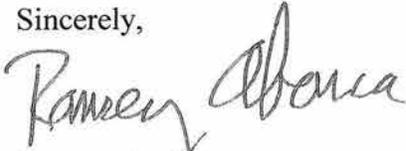
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You state the submitted information pertains to a competitive bidding situation. You state the district attorney's office's "contract negotiation position could be impaired in future solicitations due to the information that could be gained from one bidder reviewing the other proposals." After review of the

submitted information and consideration of the arguments, we find the district attorney's office has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the district attorney's office 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 587897

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Faysal Tay
Sales Executive
InterAct
102 West 3rd Street, Suite 750
Winston Salem, North Carolina 27127
(w/o enclosures)

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

Mr. Clay Cassard
Account Manager
Motorola Solutions, Inc.
1301 East Algonquin Road
Schaumburg, Illinois 60196
(w/o enclosures)

Mr. Kevin Jones
Account Executive
New World Systems
888 West Big Beaver Road, Suite 600
Troy, Michigan 48084
(w/o enclosures)

Mr. Chris Bushell
Regional Business Development Coordinator
Niche Technology
54 Balmoral Street
Winnipeg MB R3C 1X4 Canada
(w/o enclosures)

Mr. Chip Hughes
Account Executive
Tiburon, Inc.
3000 Executive Parkway, Suite 500
San Ramon, California 94583
(w/o enclosures)