



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 1, 2015

Ms. Anne M. Constantine
Legal Counsel
Dallas/Fort Worth International Airport
P.O. Box 619428
DFW Airport, Texas 75261-9428

OR2015-25023

Dear Ms. Constantine:

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# 589273.

The Dallas/Fort Worth International Airport Board (the "board") received a request for the bid for cost management and scheduling services submitted by Turner & Townsend to the board in connection with Contract No. 8500326. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Turner & Townsend. Accordingly, you state, and provide documentation showing, you notified Turner & Townsend of the request for information and of the company's 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 received comments from legal counsel to Turner & Townsend. 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). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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." *Id.* at 841. Turner & Townsend states it has competitors. In addition, Turner & Townsend states the submitted information documents a large part of how it acquires business, develops cost models, and approaches cost management during a project; and that

proprietary information, if released, could be implemented by competing entities into those companies' current and future bid work. After review of the information at issue and consideration of the arguments, we find Turner & Townsend has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the board may withhold the submitted information under section 552.104(a).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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MT/eb

Ref: 589273

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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¹As our ruling is dispositive, we need not address Turner & Townsend's remaining arguments against disclosure of the information at issue.