



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 16, 2015

Ms. Cynthia G. Tynan
Office of the General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2015-26498

Dear Ms. Tynan:

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# 590894 (OGC#'s 164784 and 165603).

The University of Texas at Arlington (the "university") received two requests from the same requestor for bids submitted in response to a specified request for proposal and all letters of intent and contracts between Sodexo Services of Texas Limited Partnership ("Sodexo").¹ You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Moreover, you state, and provide documentation demonstrating, you notified Sodexo of the request for information and of its right to submit arguments stating

¹You state the university sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

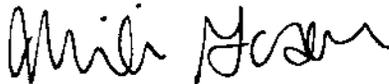
why its information should not be released. See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from Sodexo. We have reviewed the submitted information and arguments.

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, 841 (Tex. 2015). You represent the submitted information pertains to competitive bidding situation. In addition, you state the bid has been awarded, but no final contract has been signed. After review of the information at issue and consideration of the arguments, we find the university has established the release of the submitted information would give an advantage to a competitor or bidder. Thus, we conclude the university may withhold the submitted information under section 552.104(a).²

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,



Mili Gosar
Assistant Attorney General
Open Records Division

MG/akg

²As our ruling is dispositive, we need not address Sodexo's arguments against disclosure of its information.

Ref: ID# 590894

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Thomas Stanton
Sodexo
9801 Washingtonian Boulevard
Gaithersburg, Maryland 20878
(w/o enclosures)