



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 12, 2016

Ms. Laura Garza Jimenez
County Attorney
Nueces County Attorney's Office
Nueces County Courthouse
901 Leopard, Room 207
Corpus Christi, Texas 78401-3680

OR2016-00881

Dear Ms. Jimenez:

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# 594340.

Nueces County (the "county") received a request for information relating to a specified request for proposals. The county states it does not have information responsive to a portion of the request.¹ The county claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, the county states release of the submitted information may implicate the interests of Correct Care Solutions, LLC; Southern Health Partners, Inc. ("SHP"); University of Texas Medical Branch Correctional Managed Care ("UTMB"); and Wexford Health Sources, Inc. Accordingly, the county states, and provides documentation showing, it notified the 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 §§ 552.304, 552.305(d); *see also*

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

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 SHP and UTMB. 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, 841 (Tex. 2015). The county states the submitted information pertains to a competitive bidding situation. In addition, the county states the release of the submitted information could harm the county’s ability to negotiate the contract at issue. After review of the information at issue and consideration of the arguments, we find the county has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the county 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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

²As our ruling is dispositive, we need not address the remaining arguments against disclosure.

Ref: ID# 594340

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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Nashville, Tennessee 37217
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Mr. Stephen R. Smock
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Mr. Daniel Conn
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