



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 5, 2016

Mr. Steve Smeltzer
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2016-02898

Dear Mr. Smeltzer:

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# 597235.

The Texas Department of Criminal Justice (the "department") received a request for records related to the department's award of the contract for solicitation notice 696-PF-15-P026. You state you have released some information. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

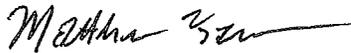
Section 552.104 of the Government Code excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, No. 466 S.W. 3d 831 (Tex. 2015). You state the submitted information pertains to a bid that has been awarded and finalized. However, you state the submitted the scoring sheets and other evaluation materials related to this contract are excepted under section 552.104 because they will be used in future similar procurement processes. You assert disclosure of the submitted information would allow third party bidders to tailor their bids to specific evaluation criteria, undermining the quality of the proposals and competition among bidders. The department further asserts that "with the requested information in hand, the requestor's company and other bidders would have a

significant competitive advantages to the [department's] detriment." After review of the information at issue and consideration of the arguments, we find the department has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the department 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MT/dls

Ref: ID# 597235

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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