



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 12, 2016

Ms. Ruth H. Soucy
Deputy General Counsel for Open Records
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2016-03521

Dear Ms. Soucy:

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# 598133 (ORR# 11938267039).

The Texas Comptroller of Public Accounts (the "comptroller's office") received a request for an unredacted copy of certain pages of a specified proposal submitted in response to request for offers number 304-16-0151PS. You state most of the information at issue was released to the requestor in response to a prior request for information. 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 Resource Integrators, L.L.C. ("Resource"). Accordingly, you state, and provide documentation showing, you notified Resource of the request for information and of its 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 Resource. We have reviewed the submitted information and the submitted 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). 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. Resource states it has competitors. In addition, Resource states “because of [Resource’s] market’s fierce competitive environment and the ongoing competitive bidding process[,]” release of the information will provide a competitive advantage to Resource’s competitors. After review of the information at issue and consideration of the arguments, we find Resource has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the comptroller’s office may withhold the information at issue under section 552.104(a) of the Government Code.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 598133

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)