



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 1, 2016

Ms. Jennifer Burnett
Attorney & Public Information Coordinator
University of Texas System
201 West 7th Street, Suite 600
Austin, Texas 78701-2901

OR2016-12426

Dear Ms. Burnett:

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# 615340 (OGC# 168848).

The University of Texas System (the "system") received a request for information pertaining to the firms that were awarded contracts for specified projects. You state the system has no information responsive to portions of the request.¹ You state the system has released some information. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim 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 (Tex. 2015). You represent the information pertains to

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).

competitive bidding situations. In addition, you state, although the system has selected winning bidders, the system has not yet executed contracts for the projects at issue. You assert release of the submitted information could impair the system's efforts at procuring and negotiating these contracts. After review of the information at issue and consideration of the arguments, we find system has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude system may withhold the submitted information under section 552.104(a).

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/bw

Ref: ID# 615340

Enc. Submitted documents

c: Requestor
(w/o enclosures)