



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 1, 2016

Ms. Jennifer Burnett
Office of the General Counsel
The University of Texas System
201 West Seventh Street, Suite 600
Austin, Texas 78701-2901

OR2016-12465

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# 612354 (OGC# 168594).

The University of Texas at Austin (the "university") received a request for information pertaining to a specified request for proposals. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Moreover, you state release of the submitted information may implicate the proprietary interests of Blu Logistics, Inc. and Ghedi International, Inc. ("Ghedi"). Accordingly, you state, and provide documentation demonstrating, you notified these third parties of the request for information and of their right to submit arguments stating why their 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 received comments from Ghedi. 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 (Tex. 2015). You state the submitted information

relates to a proposal where bids were received, but the proposal was later withdrawn. Thus, you state, no award was made and the university will re-issue a request for proposals for identical services. You explain release of the submitted information would give “potential bidders unfair insight into specific details of the university’s bidding and evaluation processes” and thus, bidders may be able to “make a deliberately unfair proposal to the university” and “impair the university’s efforts at procuring and negotiating a future contract.” After review of the submitted information and consideration of the arguments, we find the university has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the university 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,



Mili Gosar
Assistant Attorney General
Open Records Division

MG/akg

Ref: ID# 612354

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

2 Third Parties
(w/o enclosures)