



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 12, 2016

Mr. Erik Brown  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2016-20472

Dear Mr. Brown:

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# 625944.

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a specified request for offers ("RFO"). 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.

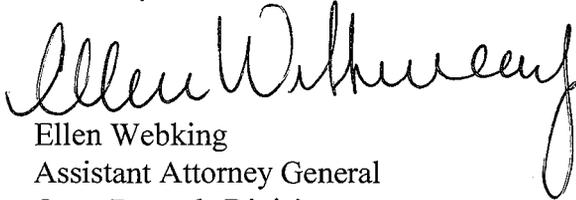
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The department represents the information at issue pertains to a competitive bidding situation relating to the procurement of agency computers and software licenses. The department states no contract has been executed. You explain the RFO at issue was cancelled; however, a substantially similar RFO was published on July 7, 2016. You state the department anticipates the same vendors will be among the offerors for the new RFO. Therefore, you contend release of the offer submissions in response to the RFO at issue would "pose significant harm to the [department's] attempts to secure the most favorable offer." After review of the information at issue and consideration of the arguments, we find the department has established the release of the information

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.

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](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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/bw

Ref: ID# 625944

Enc. Submitted documents

c: Requestor  
(w/o enclosures)