



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 30, 2015

Ms. Hadassah Schloss
Director of Open Government
Texas General Land Office
P. O. Box 12873
Austin, Texas 78711-2873

OR2015-27248

Dear Ms. Schloss:

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# 592726.

The Texas General Land Office (the "GLO") received a request for information pertaining to a specified request for proposals, to exclude the responses of non-prevailing vendors as well as the response of a named vendor, but to include the GLO's evaluation of the responses. You claim the submitted information is excepted from disclosure under sections 552.103, 552.104, and 552.111 of the Government Code. In addition, you state release of the submitted information may implicate the proprietary interests of Omnicare Pharmacy of Texas 1, L.P. ("Omnicare"). Accordingly, you state, and provide documentation showing, you notified Omnicare of the request 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 considered your arguments and reviewed the submitted information.

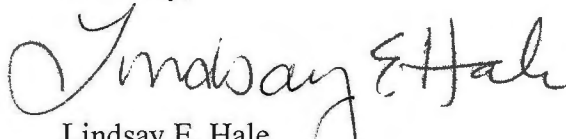
You assert the submitted information is excepted from disclosure in its entirety under section 552.104 of the Government Code. Section 552.104 excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. The "test under section 552.104 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, 841 (Tex. 2015). You represent the information pertains to a competitive bidding situation. In addition, you state, at the time of the request for information, no contract had been signed with regard to the procurement at issue and, until a contract is signed, either party may withdraw from the process.

Accordingly, you assert it is imperative all of the requested information be withheld until such time as a contract has been signed. After review of the information at issue and consideration of your arguments, we find the GLO has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the GLO may withhold the submitted information under section 552.104(a).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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/eb

Ref: ID# 592726

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. William Strickland, R. Ph.
General Manager
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(w/o enclosures)

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