



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2016

Ms. Lauren Downey
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2016-23687

Dear Ms. Downey:

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# 631356 (PIR No. 16-44841).

The Office of the Attorney General (the "OAG") received a request for correspondence, audits, contract compliance reviews, and inquiries from or to the federal government related to a specified initiative during a specified time period. The OAG states it released some information to the requestor with redactions as allowed by law. The OAG claims some of the submitted information is excepted from disclosure under sections 552.104 and 552.139 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

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*

¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Co. v. Paxton, 466 S.W.3d 831, 841 (Tex. 2015). The OAG states the information it marked pertains to two active procurements by the OAG's Child Support Division ("CSD") for multiple services pertaining to a new automated child support enforcement system, the Texas Child Support Enforcement System 2.0 Program ("T2 Initiative"). The OAG further states CSD is currently in contract negotiations for both procurements. The OAG argues release of the information it marked before the execution of the final contracts will interfere with the OAG's bargaining position and diminish its ability to procure the highest quality services and negotiate the most competitive contracts. After review of the information at issue and consideration of the arguments, we find the OAG has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the OAG may withhold the information it marked under section 552.104 of the Government Code.

Section 552.139 of the Government Code provides, in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

...

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(2). The OAG states its CSD is implementing the T2 Initiative. The OAG explains the information at issue includes an Annual Advance Planning Document Update related to the T2 Initiative submitted to the federal Office of Child Support Enforcement by the CSD pursuant to part 45, subpart F, section 95.611 of the Code of Federal Regulations. The OAG states it seeks to withhold portions of the update that relate to computer network security and reveal the potential vulnerabilities in the system's design, operation, or defense. Based on these representations and our review of the information, we find the OAG has demonstrated the information it marked relates to computer network security; the design, operation, or defense of a computer network; or an assessment of the extent to which software of a contractor of a governmental body is vulnerable to

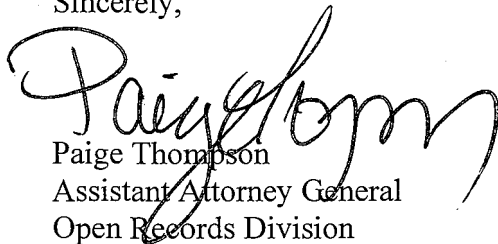
unauthorized access or harm. Accordingly, the OAG must withhold the information it marked under section 552.139.

In summary, the OAG may withhold the information it marked under section 552.104 of the Government Code. The OAG must withhold the information it marked under section 552.139 of the Government Code. The OAG must release the remaining information.

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/eb

Ref: ID# 631356

Enc. Submitted documents

c: Requestor
(w/o enclosures)