



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 29, 2016

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

OR2016-26338

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# 635633.

The Texas Department of Criminal Justice ("TDCJ") received a request for the current agreement between TDCJ and a specified third party under a specified order, as well as all vendor responses and scoring information pertaining to the specified order. You state you have 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 state the submitted information pertains to a bid that has been awarded and finalized. However, you state the submitted scoring sheets and other evaluation materials related to this contract are excepted under section 552.104 because they will be used in future similar procurement processes. In addition, you contend release of the submitted information would harm TDCJ in negotiating future contracts. After review of the information at issue and consideration of the arguments,

we find TDCJ has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude TDCJ 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, 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/bw

Ref: ID# 635633

Enc. Submitted documents

c: Requestor
(w/o enclosures)