



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 23, 2017

Ms. Cynthia Tynan
Senior Attorney & Public Information Coordinator
University of Texas System
Office of General Counsel
201 West Seventh Street, Suite 600
Austin, Texas 78701-2902

OR2017-01509

Dear Ms. Tynan:

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# 642860 (OGC# 172405 & 172583).

The University of Texas System (the "system") received two requests from different requestors for information related to a specified request for proposals. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Acro Service Corporation ("Acro"); APC Workforce Solutions, L.L.C., d/b/a ZeroChaos; Bartech Group, Inc. ("Bartech"); Cross Country Staffing, Inc. ("CCS"); GuideSoft, Inc.; InGenesis, Inc. ("InGenesis"); iSymphony, L.L.C.; Principle Information Technology Company; RightSourcing, Inc.; Shiftwise, Inc. ("Shiftwise"); The ACT Group, Inc., d/b/a Agile 1 ("Agile"); and Yoh Services, L.L.C. ("Yoh"). Accordingly, you state, and provide documentation showing, you notified the third parties of the requests for information and of their 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 received comments from Acro, Bartech, CCS, InGenesis, Shiftwise, Agile, and Yoh. We have reviewed the submitted information and the submitted arguments.

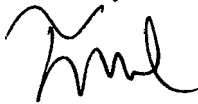
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The

“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 represent the submitted information pertains to a competitive bidding situation. You inform us although a winning bidder has been selected, a final contract has not been executed. Thus, you state release of the submitted information would disadvantage the system in obtaining a contract should negotiations fail. After review of the information at issue and consideration of the arguments, we find you have established the release of the information would give advantage to a competitor or bidder. Thus, we conclude the system 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/sdk

Ref: ID# 642860

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

12 Third Parties
(w/o enclosures)

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