



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 22, 2017

Mr. Fernando C. Gomez, J.D., Ph.D.
Vice Chancellor and General Counsel
The Texas State University System
208 East 10th Street, Suite 600
Austin, Texas 78701-2407

OR2017-03913

Dear Dr. Gomez:

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# 646646 (Texas State University # 16094.5).

Texas State University (the "university") received a request for past solicitations related to a current specified solicitation. You state you have released some of the 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 represent the submitted information pertains to solicitations for landscaping contracts, which have been executed and have expired. You explain the university solicits proposals for the same type of services on a recurring basis. You explain the disclosure of the university's evaluation criteria and past contracts would undercut the university's negotiating position with respect to future procurement of such contracts. Upon review of the submitted information and consideration of the arguments, we find you have established the release of the submitted information would give advantage to a competitor or bidder. Therefore, we conclude the university may

withhold the submitted information in its entirety 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 646646

Enc. Submitted documents

c: Requestor
(w/o enclosures)