



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 10, 2017

Mr. Mark C. Kratovil
Assistant Criminal District Attorney
Tarrant County
401 West Belknap
Fort Worth, Texas 76196

OR2017-07532

Dear Mr. Kratovil:

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# 652497.

The Tarrant County Purchasing Department (the "department") received a request for specified information related to a specified request for proposals. You state the department has released some information. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of some of this information may implicate the proprietary interests of specified third parties. Accordingly, you inform us, and provide documentation demonstrating, you notified Abbott Informatics Corporation and The Computer Solution Company of Virginia, Inc. d/b/a Forensic Advantage System ("Forensic") of the request for information and of their right to submit arguments stating why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from Forensic. We have considered the submitted arguments 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 an ongoing competitive bidding situation. You explain all of the submitted bids were rejected and the department plans to reissue the specified request for proposals. You contend release of the submitted information would provide bidders a competitive advantage by disclosing the “weight attributed to each category measured by the department” in scoring the submitted bids. After review of the information at issue and consideration of the arguments, we find the department has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the department 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,



Ian Lancaster
Assistant Attorney General
Open Records Division

IML/sdk

Ref: ID# 652497

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)

¹As our ruling is dispositive, we need not address Forensic’s argument against disclosure.