



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 11, 2017

Ms. Michelle Buendia
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar Street
Dallas, Texas 75215

OR2017-07551

Dear Ms. Buendia:

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# 653106 (ORR# 2016-28947).

The Dallas Police Department (the "department") received a request for information pertaining to contracts between the department and social media surveillance software or hardware companies. The department claims the requested information is excepted from disclosure under sections 552.104 and 552.136 of the Government Code. The department also states, and provides documentation showing, it notified Magnet Forensics, Inc. ("Magnet") of the department's receipt of the request for information and of Magnet's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 considered the claimed exceptions and reviewed the submitted information.

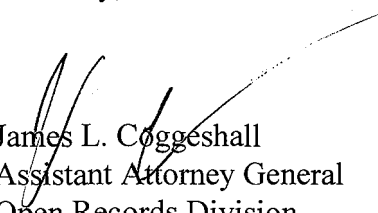
Initially, we note the department submitted only an invoice and a purchase order between Magnet and the department. We assume, to the extent any additional responsive information existed when the department received the request for information, the department has released it to the requestor. If not, then the department must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

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, 841 (Tex. 2015). The department states the submitted information is excepted from release pursuant to section 552.104 because its release “would provide competitors an advantage over the private companies doing business with” the department and because “[t]he contracts provide pricing details that could be used to the advantage of competitors when placing future bids with [the department] at the termination of existing contracts.” Upon review we find the department has established release of the submitted information would give an advantage to a competitor. Therefore, the department 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 653106

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)