



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 24, 2017

Ms. Anita Crethers
Office Assistant II
Business Development & Procurement
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2017-08549

Dear Ms. Crethers:

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# 654273 (C000992-020717).

The City of Dallas (the "city") received a request for the awarded contract and winning vendor's responses to Request for Proposals No. BKZ1521A. Although the city takes no position as to whether the submitted information is excepted under the Act, the city states release of the submitted information may implicate the proprietary interests of Conduent State & Local Solutions, Inc., formerly Xerox State & Local Solutions, Inc. ("Conduent"). Accordingly, the city states it notified Conduent of the request for information and of its 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 Conduent. We have reviewed the submitted information and the submitted arguments.

Initially, we note the city has not submitted the requested contract. To the extent any information responsive to this portion of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Next, we note Conduent argues against disclosure of information not submitted to this office for review. This ruling does not address information beyond what the city has submitted to us for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit a copy of specific information requested). Accordingly, this ruling is limited to the information the city submitted as responsive to the request for information.

Section 552.104(a) of the Government Code exempts from disclosure “information that, if released, would give advantage to a competitor or bidder.” *Id.* § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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.” *Id.* at 841. Conduent states it has competitors. In addition, Conduent states release of the information it indicates would “provide competitors an advantage over Conduent” since it would allow them to “enhance their system . . . without needing to expend time, money[,] or resources to develop such a solution and information independently.” Further, Conduent states release of the information at issue would allow its competitors to “highlight any Conduent features the competitor perceives as disadvantages or shortcomings to the procuring government agency” during competition. After review of the information at issue and consideration of the arguments, we find Conduent has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the information Conduent indicates under section 552.104(a) of the Government Code. The city must release the remaining information.

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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/som

Ref: ID# 654273

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)