



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 22, 2017

Ms. Laura Garza Jimenez
Nueces County Attorney
County of Nueces
901 Leopard. Room 207
Corpus Christi, Texas 78401-3680

OR2017-11147

Dear Ms. Jimenez:

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# 658944.

The Nueces County Purchasing Department (the "department") received a request for copies of a specified contract and specified proposals. You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of the submitted information implicates the proprietary interests of Aramark Correctional Services, LLC ("Aramark"). Accordingly, you state, and provide documentation showing, you notified this third party 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 Aramark. 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). The department states release of the submitted

information would “be detrimental to Nueces County with future bidders for the same services.” In addition, the department states release of the submitted information would “affect Nueces County’s future ability to obtain the best offer and enter into a contract with the most favorable terms possible.” After review of the submitted information and consideration of the arguments, we find the department has established 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,



Emily Buchanan
Assistant Attorney General
Open Records Division

EB/tdw

Ref: ID# 658944

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

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