



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 7, 2017

Ms. Cynthia Tynan
Senior Attorney & Public Information Coordinator
The University of Texas System
210 West 7th Street
Austin, Texas 78701

OR2017-15141

Dear Ms. Tynan:

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# 665195 (OGC# 175299).

The University of Texas Medical Branch at Galveston (the "university") received a request for all proposals submitted in response to a specified request for proposals. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You state release of this information may implicate the proprietary interests of GE Healthcare Camden Group ("GE"); Kaufman Hall & Associates ("Kaufman"); Navigant Consulting, Inc. ("Navigant"); Premier, Inc. ("Premier"); Price Waterhouse Cooper ("Price"); TRG Healthcare ("TRG"); and Veralon Partners, Inc. ("Veralon"). Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 arguments from Kaufman, Navigant, Premier, Price, and TRG. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Price seeks to withhold information not submitted to this office by the university. By statute, this office may only rule on the public availability of information submitted by the governmental body requesting the ruling. *See* Gov't Code

§ 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Because this information was not submitted by the university, this ruling does not address this information and is limited to the information submitted as responsive by the university.

Section 552.104(a) of the Government Code excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” *Id.* § 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 that although the specified request for proposals “resulted in an existing contract . . . the [u]niversity will re-issue a new [request for proposals] for the same type of consulting services.” In addition, you state “the bidding process is ongoing, and therefore a winning bidder has not yet been selected” and the “release of the requested information before that time would disadvantage the [u]niversity in obtaining a fair contract.” After review of the information at issue and consideration of the arguments, we find university has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude university 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/tdw

¹As our ruling is dispositive, we need not address the third parties’ arguments against disclosure.

Ref: ID# 665195

Enc. Submitted documents

c: Requestor
(w/o enclosures)

7 Third Parties
(w/o enclosures)