



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 8, 2017

Ms. Ana Vieira Ayala  
Assistant General Counsel and Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
210 West 7th Street  
Austin, Texas 78701

OR2017-17839

Dear Ms. Ayala:

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# 670507 (OGC# 175588).

The University of Texas System (the "system") received a request for a specified contract.<sup>1</sup> 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 may implicate the proprietary interests of Alvarez & Marsal, LLC ("Alvarez"). Accordingly, you state, and provide documentation showing, you notified Alvarez 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 considered the exception you claim 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

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<sup>1</sup>You inform this office the requestor modified his request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purposes of clarifying or narrowing request). *See also* *City of Dallas v. Abbott*, 304 S. W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

“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 represent the submitted information pertains to a competitive bidding situation. You state the system currently has a request for proposals pending that covers the same services provided for in the contract specified in the request for information. Furthermore, you state release of the submitted information “would disadvantage [the system] in obtaining a fair contract.” After review of the information at issue and consideration of the arguments, we find the system has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the system 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](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,



Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/bw

Ref: ID# 670507

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)