



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 18, 2017

Ms. June B. Harden
Assistant Attorney General
Assistant Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2017-23926

Dear Ms. Harden:

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# 681377 (PIR Nos. 17-47351 and 17-47406).

The Office of the Attorney General (the "OAG") received two requests from two requestors for information pertaining to a specified request for proposals. The OAG claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the claimed exception and reviewed the submitted information, a portion of which consists of a representative sample.¹

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 OAG states its Medical Fraud Control Unit is in the process of procuring a case management system. The OAG states it has announced

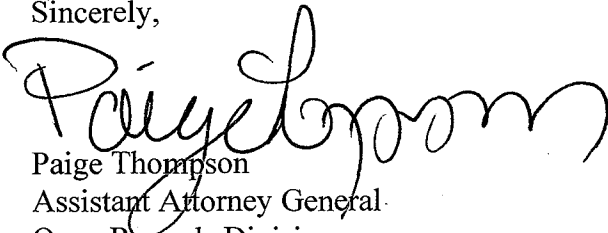
¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

a tentative awardee but negotiations are still ongoing. The OAG asserts release of the submitted information will interfere with its bargaining position and diminish its ability to procure the highest quality services and negotiate the most competitive contract. The OAG explains if negotiations breakdown, the OAG will re-evaluate the bidding process. After review of the information at issue and consideration of the arguments, we find the OAG has established the release of the information would give advantage to a competitor or bidder. Thus, we conclude the OAG 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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/eb

Ref: ID# 681377

Enc. Submitted documents

c: Requestor
(w/o enclosures)