



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 14, 2017

Ms. Diane Morris
Deputy General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2017-26030

Dear Ms. Morris:

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# 684875 (OOG ID# 326-17).

The Office of the Governor (the "governor's office") received a request for information pertaining to a specified request for proposals.¹ You state the governor's office released some information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of DKShifflet Ltd. ("DKS"). Accordingly, you state you notified DKS of the request for information and of its 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 comments from DKS. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the submitted information consists of information that is subject to section 2261.253 of the Government Code. Section 2261.253(a) provides, in relevant part, as follows:

¹We note the governor's office sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

(a) For each contract for the purchase of goods or services from a private vendor, each state agency shall post on its Internet website:

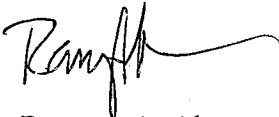
(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed[.]

Gov't Code § 2261.253(a)(1). You inform us the information at issue, a bid proposal by DKS, is incorporated by reference into a contract valued at more than \$15,000, and is between the governor's office, a state agency, and a private vendor for the purchase of services, and the contract is not expired or completed. *See id.* §§ 2261.002(2) ("State agency" has meaning assigned by Gov't Code § 2151.002), 2151.002(1) ("state agency" includes a department, commission, board, or other agency in the executive branch of state government created by the state constitution or state statute). Accordingly, because the information submitted by DKS is a part of the contract, it, like the contract, is required to be posted on the governor's internet website. Although DKS seeks to withhold the information at issue under sections 552.104 and 552.110 of the Government Code, the exceptions to disclosure found in the Act do not generally apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Consequently, the governor's office may not withhold any portion of the information at issue under sections 552.104 and 552.110 of the Government Code and must release DKS's submitted proposal in its entirety.

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/gw

Ref: ID# 684875 (OOG ID# 326-17)

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)