



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 25, 2018

Mr. Richard L. Dillard, III
Counsel for the City of University Park
Nichols, Jackson, Dillard, Hager & Smith L.L.P.
500 North Akard, Suite 1800
Dallas, Texas 75201

OR2018-01672

Dear Mr. Dillard:

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# 692939 (Ref. No. 93150).

The City of University Park (the "city"), which you represent, received a request for the proposals submitted in response to a specified request for proposals and a copy of the final contract. You state the city will release a copy of the final contract. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of this information may implicate the proprietary interests of third parties. You state you notified the third parties of the request and of their right to submit arguments to this office as to why their information should not be released.¹ *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have received comments from Tyler. 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

¹The third parties notified pursuant to section 552.305 are: Absolute Facility Solutions; AssetWorks, L.L.C.; Beehive Industries; Data Transfer Solutions, L.L.C.; Infor Public Sector, Inc.; Lucity, Inc.; MaintStar; New Edge Services; Timmons Group; Tyler Technologies ("Tyler"); and ValuD Consulting.

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 submitted information relates to a contract that has been awarded. However, the city indicates it seeks bids for these services on a recurring basis and states release of the information at issue would harm the city’s position in contractual negotiations in future bids for these types of services. After review of the information and consideration of the arguments, we find the city has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the submitted information under section 552.104(a) of the Government Code.²

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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/sb

Ref: ID# 692939

Enc. Submitted documents

c: Requestor
(w/o enclosures)

11 Third Parties
(w/o enclosures)

²As our ruling is dispositive, we need not address the remaining arguments against disclosure.