



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 17, 2019

Ms. Jennifer Burnett
Senior Attorney
Office of General Counsel
The University of Texas System
210 West 7th Street
Austin, Texas 78701

OR2019-16341

Dear Ms. Burnett:

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# 771235 (OGC# 189760).

The University of Texas System (the "system") received a request for a specified winning proposal and the criteria used for the decision. You claim the submitted information is exempted from disclosure under section 552.104 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Echo360, Inc ("Echo"). Accordingly, you state, and provide documentation showing, you notified Echo 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 considered the exception you claim and reviewed the submitted information.

Section 552.104(a) of the Government Code exempts 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). You represent the submitted information relates

to a competitive bidding situation which has not resulted in a final contract at this time. You state release of the submitted information would "provide bidders with unfair insight into the bidding process, placing the [u]niversity at a competitive disadvantage." After review of the information at issue and consideration of your arguments, we find you have established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the university 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/be

Ref: ID# 771235

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)