



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 28, 2019

Ms. Cynthia Tynan
Senior Attorney & Public Information Coordinator
University of Texas System
210 West Seventh Street
Austin, Texas 78701

OR2019-30272

Dear Ms. Tynan:

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# 794352 (OGC# 192381).

The University of Texas Medical Branch at Galveston (the "university") received a request for information pertaining to two specified invitations to bid. You state the university released some information. 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 M&R's Elite Janitorial Solutions ("M&R") and RNA Facilities Management ("RNA"). Accordingly, you state, and provide documentation showing, you notified the third parties of the request and of their right to submit arguments to this office.¹ 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 "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*

¹ As of the date of this letter, we have not received any comments from either M&R or RNA explaining why any portion of the submitted information should not be released. See Gov't Code § 552.305(d)(2)(B).

Co. v. Paxton, 466 S.W.3d 831 (Tex. 2015). You state the information at issue relates to a cancelled invitation to bid that will be reissued. In addition, you state release of the submitted information would “provide bidders with unfair insight into the qualifications, reputations, pricing, and experience of prior bidders, placing the [u]niversity at a competitive disadvantage with respect to negotiating the unexecuted contract.” After review of the information at issue and consideration of the arguments, we find you established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Patrick P. Mehaffy
Assistant Attorney General
Open Records Division

PPM/jxd

Ref: ID# 794352

Enc. Submitted documents

c: Requestor
(w/o enclosures)