



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 18, 2020

Mr. Ronny H. Wall  
Senior Associate General Counsel  
Texas Tech University System  
P.O. Box 45031  
Lubbock, Texas 79409-5031

OR2020-04965

Dear Mr. Wall:

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# 811725.

The Texas Tech University Health Science Center (the "university") received a request for information pertaining to a specified request for proposals, including the winning vendor's proposal.<sup>1</sup> You state the university has released some information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Professional Service Bureau, Inc. ("PSB"). Accordingly, you state, and provide documentation showing, the university notified PSB of the request for information and of its right to submit arguments to this office as to why the submitted information 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 PSB. 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). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex.

---

<sup>1</sup> You state the university 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) (holding that when 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).

2015). 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.” *Id.* at 841. PSB states it has competitors. In addition, PSB states release of some of the submitted information would give its competitors and prospective bidders an advantage in future bidding opportunities with the university and other business opportunities. After review of the information at issue and consideration of the arguments, we find PSB has established the release of the information at issue, which we marked, would give advantage to a competitor or bidder. Thus, we conclude the university may withhold the information we marked under section 552.104(a) of the Government Code.<sup>2</sup> The university must release the remaining information.

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,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/mo

Ref: ID# 811725

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Third Party  
(w/o enclosures)

---

<sup>2</sup> As our ruling is dispositive, we need not address PSB’s remaining arguments against disclosure of this information.