



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 27, 2016

Ms. Ana Vieira Ayala
Senior Attorney and Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West 7th Street, Suite 600
Austin, Texas 78701

OR2016-21772

Dear Ms. Ayala:

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# 627931.

The University of Texas M. D. Anderson Cancer Center (the "university") received a request for contract award information for a specified request for proposal and bid result/tab information for a specified submission. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information includes executed agreements for the purchase of services from a private vendor. We note these contracts are subject to the posting requirements in section 2261.253 of the Government Code. Section 2261.253(a) provides, in relevant part, as follows:

- (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). The submitted contracts are between the university, which is a state agency, and private vendors for the purchase of services, and the contracts are not expired or completed. *See id.* §§ 2261.002(2) (“state agency” has meaning assigned by Gov't Code § 2151.002), 2151.002(3) (“state agency” includes university system or institution of higher education as defined by Educ. Code § 61.003). Accordingly, the submitted contracts are required to be posted on the university's internet website. Although the university seeks to withhold the submitted information under section 552.104 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). Therefore, the university may not withhold any of the executed agreements under section 552.104 of the Government Code.

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 Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You represent the information at issue pertains to a competitive bidding situation. In addition, you state releasing the information at issue would impair the university's ability to obtain the highest quality services and best value in response to the request for proposal. After review of the information and consideration of the arguments, we find the university has established the release of the remaining information would give advantage to a competitor or bidder. Thus, we conclude the university may withhold the remaining information under section 552.104(a) of the Government Code.

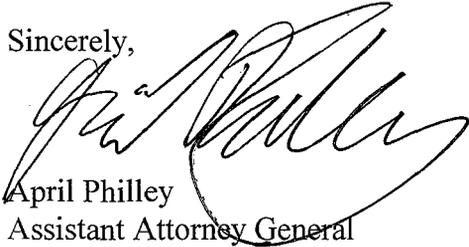
In summary, the university must release the executed agreements pursuant to section 2261.253 of the Government Code. The university may withhold the remaining information under section 552.104(a) of the Government Code.

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,

A handwritten signature in black ink, appearing to read 'April Philley', written over a circular stamp or seal.

April Philley
Assistant Attorney General
Open Records Division

AP/akg

Ref: ID# 627931

Enc. Submitted documents

c: Requestor
(w/o enclosures)