



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 12, 2016

Fernando C. Gomez, J.D., Ph.D.  
Vice Chancellor and General Counsel  
The Texas State University System  
208 East 10th Street, Suite 600  
Austin, Texas 78701-2407

OR2016-22962

Dear Dr. Gomez:

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# 630468.

The Texas State University System (the "system") received a request for the bid responses and evaluation documents pertaining to RFP No. 758-16-00040. You state the system is releasing most of the responsive information. Although you take no position as to whether submitted information is excepted under the Act, you state release of some of the submitted information may implicate the proprietary interests of Richard H. Tarr, CISA, CIA ("Richard Tarr"). Accordingly, you state, and provide documentation showing, you notified Richard Tarr 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 Richard Tarr. 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. 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. Richard Tarr states it has competitors. In addition, Richard Tarr asserts release of the marked information would give its competitors an advantage. After review of the information at issue and consideration of the arguments, we find Richard Tarr has established the release of the marked information would give advantage to a competitor or bidder. Thus, we conclude the system may withhold the marked information under section 552.104(a). As no other exceptions to disclosure have been raised, the system must release the remaining information.

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](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/bhf

Ref: ID# 630468

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)