



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 8, 2016

Ms. Halfreda Anderson-Nelson  
Public Information Officer  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2016-05388

Dear Ms. Anderson-Nelson:

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# 600890 (DART ORR# W00403-121415).

Dallas Area Rapid Transit ("DART") received a request for the evaluation documents and proposal submitted by the winning bidder pertaining to "Event # 3359" for background investigations. You claim the requested information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. You also state release of some of the submitted information may implicate the proprietary interests of a third party. Accordingly, you state, and provide documentation showing, you notified Inquiries, Inc. 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 considered the exceptions you claim and reviewed the submitted information.

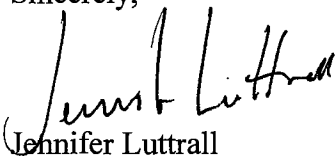
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831, 841 (Tex. 2015).

You state the submitted information consists of a proposal and evaluation documents for DART solicitation P-2014587, Background Investigations. You further state the contract was awarded to Inquiries, Inc. However, you state this contract has a term of two years and DART will routinely solicit for this contract every two years. You explain release of the submitted information would allow a competitor to undercut future bids and create an unfair advantage for a future solicitation for the same services. Based on your representations and our review of the information at issue, we agree DART may withhold the submitted information under section 552.104 of the Government Code.<sup>1</sup>

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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/akg

Ref: ID# 600890

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.