



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 16, 2016

Mr. Brendan Hall  
Attorney for Development Corporation of Harlingen, Inc.  
Law Offices of Brendan Hall  
P.O. Box 2725  
Harlingen, Texas 78551

OR2016-18521

Dear Mr. Hall:

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# 622988.

The Harlingen Economic Development Corporation (the "corporation") received a request for the sales figures for a specified company. You claim the submitted information is exempted from disclosure under sections 552.104, 552.110, and 552.131 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Bass Pro World, L.L.C. ("Bass Pro"). Accordingly, you state, and provide documentation showing, you notified Bass Pro of the request for information and of its right to submit arguments to this office as to why the information at issue 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 arguments from Bass Pro. We have considered the submitted arguments and reviewed the submitted information.

Section 552.104(a) of the Government Code exempts 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 state the corporation has specific

marketplace interests in the information at issue because the corporation is competing with other communities to attract and encourage long term business growth in Harlingen. You argue release of the submitted information would give other communities in competition with the corporation a competitive advantage in future negotiations. After review of the information at issue and consideration of the arguments, we find you have established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the corporation may withhold the submitted information under section 552.104(a).<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,



Sidney M. Pounds  
Assistant Attorney General  
Open Records Division

SMP/akg

Ref: ID# 622988

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.