



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 26, 2017

Mr. Frank J. Garza
Counsel to the Brownsville Public Utilities Board
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601 Northwest Loop 410, Suite 100
San Antonio, Texas 78216-5511

OR2017-01846

Dear Mr. Garza:

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# 642969.

The Brownsville Public Utilities Board (the "board"), which you represent, received a request for information pertaining to a specified request for proposals. You state you have released some information. You claim portions of the submitted information are exempted from disclosure under sections 552.104 and 552.110 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor has asked the board to answer questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume the board has made a good faith effort to do so.

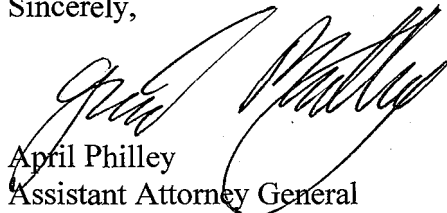
Section 552.104(a) of the Government Code exempts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether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

to a contract that has been awarded and executed. However, you state the board “is now procuring bids and [will] award the contract again.” Thus, we understand the board solicits bids for similar services on a recurring basis. In addition, you assert release of the information at issue would result in unfair competition and “a chilling effect on getting qualified contractors to respond” to future requests for proposals. After review of the information at issue and consideration of the arguments, we find the board has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the board may withhold the submitted information under section 552.104(a) of the Government Code.¹

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,



April Philley
Assistant Attorney General
Open Records Division

AP/sdk

Ref: ID# 642969

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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