



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 10, 2017

Mr. Sam Elsass
Legal Assistant
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2017-07452

Dear Mr. Elsass:

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# 655574 (PIR# 17-0951, 17-0953, 17-1015, 17-1276).

The Texas Department of Public Safety (the "department") received requests from different requestors for information pertaining to the bid results of a specified request for proposals. The department claims the requested information is excepted from disclosure under section 552.104 of the Government Code. We also understand the department has notified the following third parties of the department's receipt of the request for information and of their right to submit arguments to this office as to why the requested information should not be released: ACO Remodeling & Constructions, Inc.; Ceda-Tex Services, Inc.; Cox Concrete Contractors, Inc.; Heights Builders; Langston Construction; and Moore Building Associates, Inc. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 claimed exception and reviewed the submitted information.

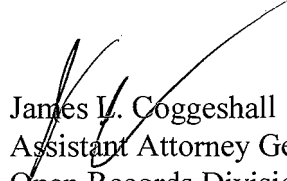
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether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

Co. v. Paxton, 466 S.W.3d 831, 841 (Tex. 2015). The department represents the information pertains to a competitive bidding situation. In addition, the department states release of the requested information would harm its purchasing interests and weaken its bargaining position. After review of the information at issue and consideration of the arguments, we find the department has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the department may withhold the submitted 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 655574

Enc. Submitted documents

c: 4 Requestor
(w/o enclosures)

5 Third Parties
(w/o enclosures)