



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 8, 2017

Ms. Stefanie Albright  
Counsel for North Texas Municipal Water District  
Lloyd Gosselink  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701

OR2017-09864

Dear Ms. Albright:

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# 656458.

The North Texas Municipal Water District (the "district"), which you represent, received two requests from different requestors for information related to a specified project. The district states it has released some of the submitted information. The district claims the remaining submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, the district states release of the submitted information may implicate the proprietary interests of Layne Inliner, L.L.C. Accordingly, the district states, and provides documentation showing, it notified the third party of the request for information and of the 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 reviewed the submitted arguments and the submitted representative sample of information.<sup>1</sup>

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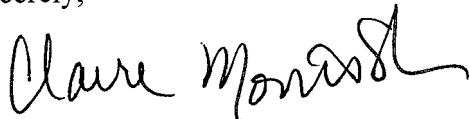
<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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 (Tex. 2015). The district represents the information at issue pertains to a competitive bidding situation. In addition, the district states release of the information would cause harm because the quality of future proposals and the degree of competition among the pool of competitors for similar projects would be undermined. After review of the information at issue and consideration of the arguments, we find the district has established the release of the information would give advantage to a competitor or bidder. Thus, we conclude the district may withhold the information submitted as Exhibits D, E, and F 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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/tdw

Ref: ID# 656458

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

Third Party  
(w/o enclosures)