



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 20, 2017

Mr. David Wheelus
Assistant General Counsel
General Counsel Division
Texas Department of Insurance
333 Guadalupe
Austin, Texas 78701

OR2017-13576

Dear Mr. Wheelus:

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# 662504 (TDI #182246).

The Texas Department of Insurance (the "department") received a request for certain information during a defined time period pertaining to Allstate Insurance Group ("Allstate").¹ You state the department will release some of the requested information. Although you take no position, you state release of this information may implicate the proprietary interests of Allstate. Accordingly, you state you notified Allstate 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

¹You inform us, and provide documentation showing, the department sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You inform us the department received the required deposit on March 30, 2017. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

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 comments from Allstate. We have considered Allstate's 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). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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." *Id.* at 841. Allstate informs us it has competitors. In addition, Allstate asserts release of the submitted information "would give Allstate's competitors [an] unfair advantage[.]" After review of the information at issue and consideration of the arguments, we find Allstate has established the release of the information at issue would give an 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.²

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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/sb

²As our ruling is dispositive, we need not address Allstate's remaining argument against disclosure.

Ref: ID# 662504

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)