



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 8, 2017

Ms. Angela Hough  
Assistant General Counsel  
North Texas Tollway Authority  
P.O. Box 260729  
Plano, Texas 75026

OR2017-25615

Dear Ms. Hough:

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# 683411 (File Nos. 2017-02327, 2017-02328, 2017-02329, 2017-02330, and 2017-02537).

The North Texas Tollway Authority (the "authority") received four requests for a specified bid tabulation and an additional request for the specified bid tabulation and a signed bid sheet. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Gold Star Petroleum; Mansfield Oil Company; Martin Eagle Oil Company; Pinnacle Petroleum, Inc. ("Pinnacle"); Petroleum Traders Corporation; RKA Petroleum, Inc.; Sun Coast Resources, Inc.; and TAC Energy. Accordingly, you state, and provide documentation showing, you notified these third parties of the requests for information and of their 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 comments from Pinnacle. We have considered the submitted arguments 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 (Tex. 2015). You represent the authority seeks bids for the services at issue on a recurring basis. In addition, you state release of the bid tabulations would place the authority at a competitive disadvantage in potential future negotiations. After review of the information at issue and consideration of the arguments, we find the authority has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the authority may withhold the submitted information under section 552.104(a) of the Government Code.<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,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KSM/som

Ref: ID# 683411

Enc. Submitted documents

c: 5 Requestors  
(w/o enclosures)

8 Third Parties  
(w/o enclosures)

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