



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 8, 2018

Ms. Diane Morris
Deputy General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2018-00455

Dear Ms. Morris:

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# 691923 (ORR# 17-389).

The Office of the Governor (the "governor's office") received a request for information related to Project Mustang. The governor's office claims the submitted information is excepted from disclosure under sections 552.104, 552.107, 552.111, and 552.131 of the Government Code. Additionally, the governor's office states release of the submitted information may implicate the proprietary interests of Louis Vuitton U.S. Manufacturing, Inc. ("Louis Vuitton"). Accordingly, the governor's office states, and provides documentation showing, it notified Louis Vuitton 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 received comments from Louis Vuitton. We have reviewed the submitted arguments and the submitted information. We have also received and considered comments from the requestor. *See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).*

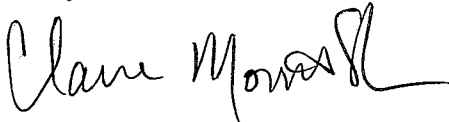
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831, 841 (Tex. 2015). The governor's office states it has specific marketplace interests in the submitted information because the governor's office is competing against other states attempting to recruit businesses to relocate or expand their

businesses in their respective states. The governor's office states release of the submitted information would seriously disadvantage Texas by permitting other states to directly approach these entities with competing incentives. Based on these representations and our review, we find the governor's office has demonstrated it has specific marketplace interests and may be considered a "competitor" for purposes of section 552.104. Therefore, we find the governor's office has demonstrated release of the submitted information would cause specific harm to the governor's office's marketplace interests in a particular competitive situation. Accordingly, the governor's office may withhold the submitted information under section 552.104 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 691923

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.