



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

January 23, 2018

Ms. Michele Freeland  
Legal Assistant  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2018-01410

Dear Ms. Freeland:

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# 692449 (PIR Nos. 17-8131, 17-8687).

The Texas Department of Public Safety (the "department") received two requests for bid tabulations for a specified contract. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim 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). The department represents the information at issue pertains to competitive bidding situations. You state release of the submitted information would harm the department's purchasing interests and weaken the department's bargaining position as it deliberates options and negotiates the best value now and in the future. You argue if the information at issue is released, competing vendors would know the prices offered by an entity selling these goods or services to the department, which could artificially inflate prices and prevent the department from getting best value. After review of the information at issue and consideration of the arguments, we find the department has established the release of the information 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.

You also ask this office to issue a previous determination permitting the department to withhold bid tabulations pursuant to section 552.104 of the Government Code without seeking a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Accordingly, 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,

A handwritten signature in black ink that reads "Emily Kunst". The signature is written in a cursive, flowing style.

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/tdw

Ref: ID# 692449

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)