



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 30, 2018

Ms. Katherine R. Fite
Assistant General Counsel
Texas Department of Information Resources
P.O. Box 13564
Austin, Texas 78711-3564

OR2018-02004

Dear Ms. Fite:

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# 693270.

The Texas Department of Information Resources (the "department") received a request for intra-agency and inter-agency communications, as well as scoring and evaluation information, pertaining to a specified request for offers. You state the department has released some information. You claim the submitted information is excepted from disclosure under sections 552.104, 552.107, and 552.111 of the Government Code. You also state you notified the Texas Department of Insurance, the Texas Department of Motor Vehicles, and the Department of Public Safety of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the Texas Department of Insurance and the Texas Department of Motor Vehicles. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See id.*

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." *Id.* § 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 information pertains to a competitive bidding situation. In addition, you state the solicitation at issue in the request is under review as a result of a bid protest. You explain the review may result in a new solicitation. After review of the information at issue and consideration of the arguments, we find you have established the release of the information at issue 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.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,



Erin Groff
Assistant Attorney General
Open Records Division

EMG/sb

Ref: ID# 693270

Enc. Submitted documents

c: Requestor
(w/o enclosures)

3 Third Parties
(w/o enclosures)

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