



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 3, 2019

Ms. Michele Freeland
Office of General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2019-00159

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# 751510 (PIR# 18-8681).

The Texas Department of Public Safety (the "department") received a request for a specified bid tabulation. 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.

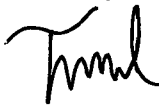
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You state the submitted information consists of a bid tabulation for goods and services. You state the release of the submitted information would harm the department's "purchasing interests and weaken the [d]epartment's bargaining position as it deliberates options and negotiates best value now and in the future." Further, you state, in the event that the submitted information is released, "competing vendors would know the prices offered by an entity selling these goods or services to the [d]epartment, which could artificially inflate prices and prevent the [d]epartment from getting best value[.]" Upon review, we find the department has established the release of the submitted 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.

The department also asks this office to issue a previous determination permitting it to withhold bid tabulations under section 552.104 of the Government Code without the necessity of requesting a decision under section 552.301 of the Government Code. *See* Gov't Code § 552.301(a) (allowing a 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, 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/som

Ref: ID# 751510

Enc. Submitted documents

c: Requestor
(w/o enclosures)