



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 22, 2019

Mr. James G. Nolan  
Associate Deputy General Counsel  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

OR2019-01863

Dear Mr. Nolan:

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# 747093 (CPA ORTS# 14771186106).

The Texas Comptroller of Public Accounts (the "comptroller") received a request for a specified proposal received in response to bid number 304T-18-200A5. The comptroller claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception the comptroller claims and reviewed the submitted information.

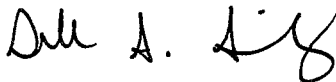
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The comptroller represents the information at issue pertains to a competitive bidding situation. The comptroller informs us the original solicitation for uniforms was "posted, but thereafter cancelled after finding deficiencies in the specifications." The comptroller explains it plans to post a new solicitation for the same uniforms in the near future. The comptroller contends release of the information at issue "would be anti-competitive by creating an un-level playing field for the vendors, and in addition, could result in the state paying more for the solicited products than if the bids on the original solicitation remain secret until [the] replacement solicitation is concluded."

After review of the information at issue and consideration of the arguments, we find the comptroller has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the comptroller may withhold the submitted information under section 552.104(a) of the Government Code.

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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/gw

Ref: ID# 747093

Enc. Submitted documents

c: Requestor  
(w/o enclosures)