



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 6, 2019

Mr. Brian O'Reilly  
Counsel for the Camino Real Regional Mobility Authority  
Locke Lord LLP  
600 Congress Avenue, Suite 2200  
Austin, Texas 78701

OR2019-06217

Dear Mr. O'Reilly:

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# 753725.

The Camino Real Regional Mobility Authority (the "authority"), which you represent, received a request for the following information pertaining to a specified restoration and modernization program: the request for proposals document, amendments, all submitted proposals, and the award summary. Although the authority takes no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Brookville Equipment Corporation ("Brookville"). Accordingly, you state, and provide documentation showing, you notified Brookville of the request for information and of its right to submit arguments to this office. *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 Brookville. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the authority has only submitted Brookville's proposal in response to the present request. To the extent any additional information responsive to the request existed on the date the authority received the request, we assume you have already released it. If the authority has not released any such information, it must do so at this time. *See* Gov't Code

§§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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.” *Id.* at 841. Brookville asserts section 552.104 for its information at issue. Brookville states it has competitors. Further, Brookville states the release of the information at issue would provide an unfair advantage to their competitors. After review of the submitted information and consideration of the arguments, we find Brookville has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the authority may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</sup>

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,



Blake Brennan  
Attorney  
Open Records Division

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

Ref: ID# 753725

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)