



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 25, 2019

Mr. Mark C. Kratovil  
Assistant Criminal District Attorney  
Tarrant County  
401 West Belknap  
Fort Worth, Texas 76196

OR2019-08181

Dear Mr. Kratovil:

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# 756080.

Tarrant County (the "county") received a request for a specified proposal.<sup>1</sup> Although the county takes no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the submitted information may implicate the proprietary interests of JPMorgan Chase Bank, N.A. ("JPMorgan"). Accordingly, you state, and provide documentation showing, you notified JPMorgan of the request and 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 JPMorgan. We have considered the submitted arguments and reviewed the submitted information.

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<sup>1</sup>You state the county sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

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. JPMorgan asserts it has competitors. Further, JPMorgan explains release of portions of its information would give its competitors an advantage. After review of the information at issue and consideration of the arguments, we find JPMorgan has established the release of the information at issue would give an advantage to a competitor or bidder. Thus, we conclude the county may withhold the information we have marked under section 552.104(a) of the Government Code.<sup>2</sup>

Section 552.136 of the Government Code states “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”<sup>3</sup> Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). The remaining information contains bank account, bank routing, and credit card numbers. However, we are unable to determine if this information is fictitious. Accordingly, to the extent the bank account, bank routing, and credit card numbers in the remaining information constitute actual account, routing, and credit card numbers, the county must withhold them under section 552.136 of the Government Code. To the extent these numbers are fictitious, the county may not withhold them under section 552.136.

We note some of the remaining information appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the county may withhold the information we have marked under section 552.104 of the Government Code. The county must withhold all bank account, bank routing, and credit card numbers to the extent they constitute actual account, routing, and credit card numbers, in the remaining information under section 552.136 of the Government Code. The

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<sup>2</sup>As our ruling is dispositive, we need not consider JPMorgan’s remaining argument against disclosure of this information.

<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

county must release the remaining information; however, any information subject to copyright may only be released in accordance with copyright law.

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,



Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/mo

Ref: ID# 756080

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)