



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 10, 2019

Mr. Todd Chenoweth
General Counsel
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

OR2019-15499

Dear Mr. Chenoweth:

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# 769546.

The Texas Water Development Board (the "board") received a request for all proposals submitted in response to a specified request for proposals. You state some information has been provided to the requestor. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Collier Consulting; Daniel B. Stephens & Associates, Inc.; INTERA, Inc.; LRE Water, LLC; Research Triangle Institute; R.W. Harden & Associates, Inc.; and Texas Water Science Center. Accordingly, you state, and provide documentation showing, you notified the third parties 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 § 552.305(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 reviewed the submitted information and considered the submitted arguments.

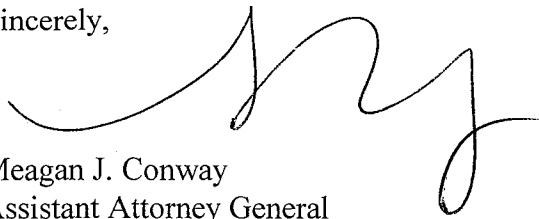
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's

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 represent the submitted information relates to a competitive bidding situation which has not resulted in a final contract at this time. You explain release of the submitted information would disadvantage the board in obtaining a fair contract should negotiations fail. After review of the information at issue and consideration of your 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 board 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, 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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MC/gw

Ref: ID# 769546

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 7 Third Parties
(w/o enclosures)