



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 24, 2019

Ms. Hadassah Schloss
Open Records Coordinator
Legal Services Division
Texas General Land Office
P.O. Box 12873
Austin, Texas 78711

OR2019-20264

Dear Ms. Schloss:

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# 777388 (ORR# 19-0545).

The Texas General Land Office (the "GLO") received two requests from the same requestor for information related to project number X0017451-SV. The GLO states it does not maintain information responsive to a portion of the request.¹ The GLO states it is releasing some of the requested information. The GLO claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception the GLO 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 GLO represents the information at issue

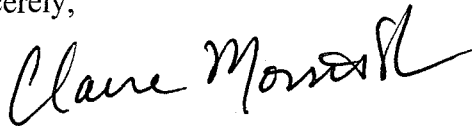
¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

pertains to a competitive bidding situation that is still in process and for which a contract has not yet been executed. In addition, the GLO states release of the information at issue would cause harm to the GLO's ability to obtain competitive bids from qualified companies, should the need arise to rebid the solicitation. After review of the information at issue and consideration of the arguments, we find the GLO has established the release of the information would give advantage to a competitor or bidder. Thus, we conclude the GLO 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/eb

Ref: ID# 777388

Enc. Submitted documents

c: Requestor
(w/o enclosures)