



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 19, 2019

Ms. Laura Garza Jimenez  
County Attorney  
Nueces County  
901 Leopard Street, Room 207  
Corpus Christi, Texas 78401-3680

OR2019-23024

Dear Ms. Jimenez:

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# 781109 (COATTYFILE# 19-OR-068).

Nueces County (the "county") received a request for information relating to a specified audit. You state the county released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.116 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Global Spectrum ("Global"). Accordingly, you state, and provide documentation showing, the county notified Global of the request 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 considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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*

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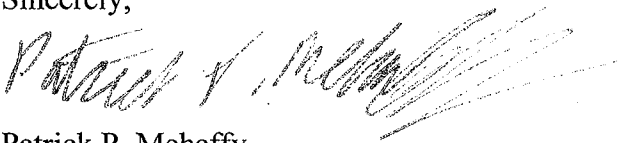
<sup>1</sup> We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

*Co. v. Paxton*, 466 S.W.3d 831, 841 (Tex. 2015). You state the submitted information relates to a contract for services with the county. You indicate the county seeks bids for these services on a recurring basis. Further, you state release of the information at issue would make it less likely for bidders to present competitive bids to the county, thus preventing the county from obtaining “the best offer and [from entering] into a contract with the most favorable terms possible.” After review of the information at issue and consideration of the arguments, we find you established release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the county may withhold the submitted information under section 552.104(a) of the Government Code.<sup>2</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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Patrick P. Mehaffy  
Assistant Attorney General  
Open Records Division

PPM/gw

Ref: ID# 781109

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Third Party  
(w/o enclosures)

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<sup>2</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.