



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 26, 2019

Mr. Juan S. Gonzalez
Assistant General Counsel
El Paso Water Utilities – Public Service Board
P.O. Box 511
El Paso, Texas 79961-0511

OR2019-23804

Dear Mr. Gonzalez:

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# 782740 (ORR# W061365-060619).

The El Paso Water Utilities – Public Service Board (the “board”) received a request for a specified survey. You claim the submitted information is excepted from disclosure under sections 552.104, 552.105, and 552.106 of the Government Code. We have considered the exceptions you claim 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). You represent the submitted information pertains to the assessment and evaluation of real estate the board is considering purchasing. In addition, you state release of the submitted information would “provide an advantage to a competitor or bidder in their attempt to secure the real estate” at issue and harm the board’s “negotiating position with the respect to the parcels.” After review of the information at issue and consideration of the arguments, we find the board has 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).¹

¹ As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/mo

Ref: ID# 782740

Enc. Submitted documents

c: Requestor
(w/o enclosures)