



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 28, 2019

Mr. Paul E. Fulbright
Assistant District Attorney
Navarro County
300 West 3rd Avenue, Suite 301
Corsicana, Texas 75110

OR2019-30326

Dear Mr. Fulbright:

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# 794567.

The Navarro County Criminal District Attorney's Office (the "district attorney's office") received a request for information pertaining to contracts for urinalysis confirmation testing.¹ The district attorney's office claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

We understand the district attorney's office to assert it does not have some of the requested information. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume the district attorney's office has made a good faith effort to do so.

¹The district attorney's office sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

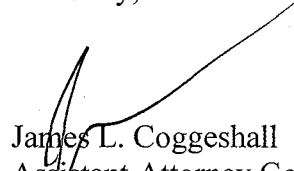
Next, we note some of the submitted information is not responsive to the request for information because it was created after the district attorney's office received the request. This ruling does not address the public availability of any information that is not responsive to the request, and the district attorney's office is not required to release this information in response to this request.

Section 552.104(a) of the Government Code exempts 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, 841 (Tex. 2015). Upon review, we find the district attorney's office has not established release of the information at issue would give an advantage to a competitor. Therefore, the district attorney's office may not withhold the submitted responsive information under section 552.104. Accordingly, the district attorney's office must release the submitted responsive information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 794567

Enc. Submitted documents

c: Requestor
(w/o enclosures)