



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

October 29, 2019

Ms. Connie Standridge  
City Manager  
City of Corsicana  
200 North 12<sup>th</sup> Street  
Corsicana, Texas 75110

OR2019-30522

Dear Ms. Standridge:

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# 793912 (Request #62-2019X).

The City of Corsicana (the "city") received a request for information pertaining to a specified contract and billing information for ambulance services. You state the city will release some of the requested information. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state, and provide documentation showing, you notified Change Healthcare Technology Enabled Services, L.L.C. ("Change") of the request for information and of its right to submit arguments to this office as to why the information at issue 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 received comments from Change. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the requestor asks questions in the instant request. 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 12 (1990). However, a governmental body must make a good faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 561 at 89 (1990), 555 at 102. We assume you have made a good faith effort to do so.

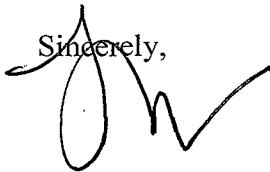
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The

“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 a competitive bidding situation. In addition, you state the “[r]elease of the information at issue would harm the [c]ity’s purchasing interests and weaken the [c]ity’s bargaining position as it deliberates options and negotiates best value now and in the future.” You seek to withhold the terms of a contract. For many years, this office concluded the terms of a contract and especially the pricing of a winning bidder are public and generally not excepted from disclosure. Gov’t Code § 552.022(a)(3) (contract involving receipt or expenditure of public funds expressly made public); Open Records Decision Nos. 541 at 8 (1990) (public has interest in knowing terms of contract with state agency), 514 (1988) (public has interest in knowing prices charged by government contractors), 494 (1988) (requiring balancing of public interest in disclosure with competitive injury to company). *See generally* Freedom of Information Act Guide & Privacy Act Overview, 219 (2000) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). However, now, pursuant to *Boeing*, section 552.104 is not limited to only ongoing competitive situations, and a third party need only show release of its competitively sensitive information would give an advantage to a competitor even after a contract is executed. *Boeing*, 466 S.W.3d 831, at \*1, \*8. After review of the information at issue and consideration of the arguments, we find the city has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</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,



Jahanna Ward  
Assistant Attorney General  
Open Records Division

JW/rm

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<sup>1</sup> As our ruling is dispositive, we need not address Change’s arguments against disclosure of this information.

Ref: ID# 793912

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)