



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 20, 2019

Ms. Lindsay Vanderbilt
Director of Communications
East Texas Council of Governments
3800 Stone Road
Kilgore, Texas 75662

OR2019-32900

Dear Ms. Vanderbilt:

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# 796590.

The East Texas Council of Governments (the "council") received a request for the proposal submitted by Career Team, L.L.C. ("Career"), in response to request for proposals number WF-WCSP19R. The council claims the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code.¹ Additionally, the council states release of the submitted information may implicate the proprietary interests of Career. Accordingly, the council states, and provides documentation showing, it notified Career of the request for information and of the right to submit arguments to this office as to why the submitted information 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 Career. We have considered the submitted arguments 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 council represents the information at issue

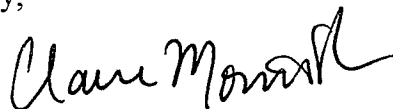
¹ Although the council also raises section 552.101 of the Government Code, the council has not provided any arguments to support this exception. Therefore, we assume the council has withdrawn its claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

pertains to a competitive bidding situation in which a winning bidder has been selected and negotiations are ongoing but a contract has not been executed. In addition, the council states release of the information at this time would cause harm to its competitive interests, should negotiations fail and the council be required to begin negotiations with a different bidder. After review of the information at issue and consideration of the arguments, we find the council has established the release of the information would give advantage to a competitor or bidder. Thus, we conclude the council may withhold the submitted information under section 552.104(a) of the Government Code.²

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/rm

Ref: ID# 796590

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.