



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 25, 2020

Ms. Dylbia L. Jefferies Vega
Public Information Officer
Cameron County
1100 East Monroe Street
Brownsville, Texas 78520

OR2020-05914

Dear Ms. Vega:

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# 813354.

Cameron County (the "county") received a request for a specified abatement application and agreement. The county states it has released some information to the requestor. Although the county takes no position as to whether the submitted information is excepted under the Act, the county states release of the submitted information may implicate the proprietary interests of Annova LNG and Annova LNG Common Infrastructure, LLC (collectively, "Annova").¹ Accordingly, the county states, and provides documentation showing, it notified Annova of the request for information and of its 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 Annova. We have reviewed the submitted information and the submitted arguments.

Annova asserts the submitted information is protected under section 552.104 of the Government Code. Section 552.104(a) excepts from disclosure "information that, if

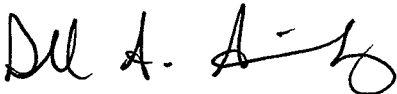
¹ We note, and the county acknowledges, it did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, as the interests of a third party can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

released, would give advantage to a competitor or bidder.” Gov’t Code _ 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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.” *Id.* at 841. Annova states it has competitors. In addition, Annova states release of the submitted information “would provide an unfair advantage to Annova’s competitors[.]” After review of the information at issue and consideration of the arguments, we find Annova has established the 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.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,



Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/be

Ref: ID# 813354

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)

² As our ruling is dispositive, we need not address Annova’s remaining argument against disclosure of the submitted information.