



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 26, 2020

Ms. Norma A. Cantu
City Secretary
City of Weslaco
255 South Kansas Avenue
Weslaco, Texas 78596

OR2020-21562

Dear Ms. Cantu:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"),⁷ chapter 552 of the Government Code. Your request was assigned ID# 841951.

The City of Weslaco (the "city") received a request for the certain insurance coverage provided by the Texas Municipal League Intergovernmental Risk Pool ("TML") during a specified policy period. The city claims the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code.¹ Additionally, the city states it notified TML 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 §552.304 (interested party may submit comments stating why information should or should not be released). As of the date of this letter, we have not received comments from TML. We have considered the exceptions the city claims and reviewed the submitted information.

Section 552.110 of the Government Code protects (1) trade secrets, and (2) commercial or financial information the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained. *See* Gov't Code § 552.110(b)-(c). Although the city argues the submitted information is excepted from disclosure under

¹ Although the city raises sections 552.101 of the Government Code for the submitted information, the city provides no arguments explaining the applicability of this exception. Therefore, we assume the city no longer asserts section 552.101. *See* Gov't Code §§ 552.301, .302. Further, although the city raises sections 552.305 and 552.352 of the Government Code, we note these sections are not exceptions to public disclosure under the Act. Rather, section 552.305 addresses the procedural requirements for notifying third parties their interests may be affected by a request for information and section 552.352 imposes criminal penalties for the release of confidential information. *See id.* §§ 552.305, .352.

section 552.110, that exception is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the city's argument under section 552.110.

Section 552.104(a) of the Government Code excepts from disclosure information that a governmental body demonstrates, if released, would "harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future." *Id.* § 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). After review of the information at issue and consideration of the arguments, we find the city has failed to demonstrate the applicability of section 552.104 to the information at issue. Thus, we conclude the city may not withhold the information at issue under section 552.104(a).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.² *See* Gov't Code § 552.130. Accordingly, the city must withhold all vehicle identification numbers under section 552.130 of the Government Code. The city must release the remaining 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,

Michelle Garza
Assistant Attorney General
Open Records Division

MG/gw

² The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decisions Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 841951

Enc. Submitted documents

c: Requestors
(w/o enclosures)

c: Third Party
(w/o enclosures)