



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 4, 2022

Ms. Amanda Diane Austin
Assistant District Attorney
Hidalgo County Criminal District Attorney's Office
100 East Cano Street
Edinburg, Texas 78539

OR2022-06588

Dear Ms. Austin:

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# 933011 (ORR# 2021-0206-DA.CO).

Hidalgo County (the "county") received a request for three specified bid tabulations. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted information related to one of the specified bid tabulations. Accordingly, to the extent any information responsive to this portion of the request existed on the date the county received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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." 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). After review of the information at issue and consideration of the arguments, we find you have established the release of some of the information at issue would harm the county's interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation. Thus, we conclude the county may withhold the information we have marked under section 552.104(a) of the Government Code. However, we find you have failed to demonstrate the applicability of section 552.104 to the remaining information at issue. Therefore, we conclude the county may not withhold any of the remaining information at issue under section 552.104(a) of the Government Code. As you raise no further arguments against disclosure, the county 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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/mo

Ref: ID# 933011

Enc. Submitted documents

c: Requestor
(w/o enclosures)