



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 7, 2022

Mr. Dane C. Bruun
Counsel for the Port of Corpus Christi Authority of Nueces County
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Corpus Christi, Texas 78401

OR2022-27174

Dear Mr. Bruun:

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# 967853.

The Port of Corpus Christi Authority of Nueces County (the "authority"), which you represent, received a request for all sales documents, closing statements, and prices for seven specified properties. You state the authority does not have information responsive to six of the specified properties.¹ You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

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

¹ The Act does not require a governmental body to create or release information that did not exist when a request for information was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision No. 452 at 3 (1986).

S.W.3d 831, 841 (Tex. 2015). You state the authority has specific marketplace interests in the information at issue because the authority is competing with other local and governmental competitors for strategic land acquisitions around the Corpus Christi Ship Channel and the La Quinta Ship Channel regarding the development of public and private crude oil export terminals, navigation-related business, and long-term business growth. You assert release of the information at issue would impair the authority's ability to effectively compete in the market and "negotiate contractual terms in current and prospective real property purchases, leases, easements, and related agreements for the development of [the authority's] real property." Additionally, you assert release of the information at issue "would significantly and negatively impact [the authority's] current strategic position, derived from [the authority's] longstanding experience and expertise in the marketplace, and would leave [the authority] at a substantial, significant, and unfair competitive disadvantage." Based upon your representations and our review, we find you have demonstrated the authority has specific marketplace interests and may be considered a "competitor" for purposes of section 552.104. We also find you have demonstrated release of the submitted information would give advantage to a competitor or bidder. Accordingly, the authority may withhold the submitted information under section 552.104(a) of the Government Code.

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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/jxd

Ref: ID# 967853

c: Requestor