



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 16, 2016

Ms. Leslie O. Haby  
Assistant Criminal District Attorney  
Civil Section  
County of Bexar  
101 West Nueva Street, 7<sup>th</sup> Floor  
San Antonio, Texas 78205

OR2016-18487

Dear Ms. Haby:

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# 623570.

Bexar County (the "county") received a request for information related to the county's current contract for prisoner transportation services. You state the county will release some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Prisoner Transportation Services ("PTS") and Texas Prisoner Transportation Division, L.L.C. ("TPTD"). Accordingly, you state, and provide documentation showing, you notified PTS and TPTD of the request for information and of their 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 reviewed the submitted arguments and the submitted representative sample of information.<sup>1</sup>

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

---

<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

“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 county represents the information at issue pertains to a competitive bidding situation. In addition, the county states release of the information could give the bidders an unfair competitive advantage in current or future solicitations by providing proprietary information about other bidders. Moreover, the county argues its contract negotiation position could be impaired in future solicitations due to the information that could be gained by one bidder reviewing other proposals. After review of the information at issue and consideration of the arguments, we find the county has established the release of the information 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.

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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 623570

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)