



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 23, 2016

Ms. Jessica Vu
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2016-19010

Dear Ms. Vu:

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# 625768 (ORR# 16-188).

The Office of the Governor (the "OOG") received a request for the governor's schedule for a specified period of time. The OOG states it has released some of the requested information, but claims some of 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 of the Government Code excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." 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). The OOG argues expansion and recruitment of businesses to the State of Texas is a competitive process, and informs us it "works tirelessly to promote Texas, in part by providing state resources to encourage business growth within the state." The OOG states, "Texas devotes substantial resources to programs designed primarily to attract new businesses to the state or assist with the substantial expansion of an existing business as part of competitive recruitment." The OOG explains it is currently negotiating potential approvals or contracts with the business at issue, and contracts with this business have not been executed. It also argues release of

this information, before contracts are signed or final approval given, would disadvantage Texas by permitting other states to directly approach this business and its representatives with competing incentives. Upon review, we find the OOG has demonstrated it has specific marketplace interests and may be considered a “competitor” for purposes of section 552.104. We also find the OOG has demonstrated release of the information it has marked would give advantage to a competitor or bidder. Accordingly, the OOG may withhold the information it has marked under section 552.104 of the Government Code. The OOG 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 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/akg

Ref: ID# 625768

Enc. Submitted documents

c: Requestor
(w/o enclosures)