



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 22, 2016

Ms. Hadassah Schloss  
Director, Open Government  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

OR2016-21444

Dear Ms. Schloss:

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# 627944.

The Texas General Land Office (the "GLO") received two requests from different requestors for information pertaining to a specified request for proposals. You state you have released some information. You claim some of the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state you notified Apollo Environmental Strategies, Inc. ("Apollo"); Bertucci Contracting Company, LLC ("Bertucci"); Luhr Bros., Inc. ("Luhr"); and Shoreline Foundation, Inc. ("Shoreline") of the requests 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 received comments from Apollo and Bertucci.<sup>1</sup> We have considered the submitted arguments and reviewed the submitted information.

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<sup>1</sup>We note Luhr and Shoreline have submitted comments stating they do not object to the release of their information.

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). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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.” *Id.* at 841. You represent the information you have indicated pertains to a competitive bidding situation. In addition, you state a contract has not been executed in relation to the specified request for proposals, and release of the information at issue would harm the GLO’s ability to obtain advantageous contract terms. Apollo and Bertucci each state it has competitors. Apollo and Bertucci also each state release of its information would place it at a substantial disadvantage to its competitors in current and future projects. After review of the information at issue and consideration of the arguments, we find the GLO, Apollo, and Bertucci have established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the GLO may withhold the information you have indicated, Apollo’s information, and Bertucci’s information under section 552.104(a) of the Government Code.<sup>2</sup> The GLO 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](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,



Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/bw

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

Ref: ID# 627944

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

4 Third Parties  
(w/o enclosures)