



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

October 3, 2016

Ms. Lisa Calem-Lindström  
Public Information Coordinator  
Texas Facilities Commission  
P.O. Box 13047  
Austin, Texas 78711-3047

OR2016-22188

Dear Ms. Lindström:

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# 628712.

The Texas Facilities Commission (the "commission") received a request for the information submitted in response to three requests for proposals and information related to the three top bidders for each request. You state you have released the information pertaining to the first two requests for proposals to the requestor. 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 the commission has only submitted information pertaining to the top bidders of the third request for proposal. Thus, to the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

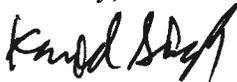
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's

information] would be an advantage, not whether it would be a decisive advantage.” *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You represent the submitted information pertains to a competitive bidding situation. In addition, you state, although the commission has selected a winning bidder, the commission has not yet executed a contract for the solicitation at issue. You assert release of the submitted information could impair the commission’s efforts negotiating this contract. After review of the submitted information and consideration of the arguments, we find the commission has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the commission 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,



Kavid Singh  
Assistant Attorney General  
Open Records Division

KVS/som

Ref: ID# 628712

Enc. Submitted documents

c: Requestor  
(w/o enclosures)