



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 12, 2016

Ms. Angela Hough
Assistant General Counsel
North Texas Tollway Authority
P.O. Box 260729
Plano, Texas 75026

OR2016-22920

Dear Ms. Hough:

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# 630366 (NTTA File No. 2016-02116).

The North Texas Tollway Authority (the "authority") received a request for the bid tabulation related to a specified request for bids. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.104 of the Government Code. You also state release of this information may implicate the proprietary interests of CEC Facilities Group, LLC ("CEC"). Accordingly, you state you notified CEC of the request for information and of its right to submit arguments to this office as to why the information at issue 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 considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor asks the authority to answer questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 561 at 8-9 (1990), 555 at 102. We assume you have made a good-faith effort to do so.

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, 841 (Tex. 2015). You represent the submitted information pertains to a competitive bidding situation. You state the authority has not finalized and executed a contract with the winning bidder in this case. You state release of the submitted information “could place [the authority] at a competitive disadvantage in potential future negotiations.” After review of the information at issue and consideration of the arguments, we find you have established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the authority may withhold the submitted information under section 552.104(a) of the Government Code.¹

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 630366

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.