



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 17, 2015

Ms. Lori Fixley Winland  
Counsel for Central Texas Regional Mobility Authority  
Locke Lord, L.L.P.  
600 Congress, Suite 2200  
Austin, Texas 78701

OR2015-16925

Dear Ms. Winland:

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# 576000.

The Central Texas Regional Mobility Authority (the "authority"), which you represent, received a request for information related to the authority's award of a design-build contract to Colorado River Constructors ("CRC") for the Bergstrom Expressway Project. You claim the submitted information is excepted from disclosure under sections 552.103, 552.104, 552.107, 552.110, and 552.111 of the Government Code. In addition, you state release of this information may implicate the proprietary interests of CRC. Accordingly, you state, and provide documentation showing, you notified CRC of the request for information and of its 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) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exceptions to disclosure under the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

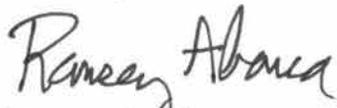
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, No. 12-1007, 2015 WL 3854264, at \*9 (Tex. June 19, 2015). You represent the submitted information pertains to a competitive bidding situation involving the authority's ongoing procurement of a design-build contract for the Bergstrom Expressway

Project from CRC. In addition, you state negotiations with CRC are still in the preliminary stages, and the authority has not made a final award or executed a final design-build contract for the project. You further state if the authority fails to reach an agreement with CRC the authority may elect to negotiate an agreement with another party or initiate a new procurement process. You assert release of the submitted information would place the authority at a competitive disadvantage in its future negotiations or in a new procurement process. After review of the information at issue and consideration of the arguments, we find the authority has 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.<sup>1</sup>

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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/dls

Ref: ID# 576000

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

Mr. Steven Grech  
Colorado River Constructors  
5001 Spring Valley Road Suite 700 W  
Dallas, Texas 75244  
(w/o enclosures)