



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 28, 2015

Ms. Halfreda Anderson-Nelson
Public Information Officer
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2015-20291

Dear Ms. Anderson-Nelson:

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# 583721 (DART ORR 11761).

Dallas Area Rapid Transit ("DART") received a request for all bidder responses for a specified request for proposals as well as the name of the firm awarded the contract. You state DART has released some responsive information. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified the Bogdahn Group; Buck Consultants; Callan Associates, Inc.; Gavion, L.L.C.; Gray & Company; and the PFM Group of the request for information and of their rights 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 exception you claim and reviewed the submitted information.

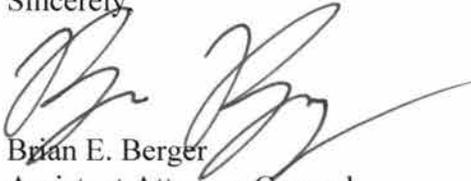
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether 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 information pertains to a competitive bidding situation. In addition, you state release of the submitted information would allow competitors to undercut future bids and create an unfair advantage for a future solicitation for retirement consulting services. After review of the information at issue and consideration of the arguments, we find DART has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude DART may withhold the submitted information under section 552.104(a).

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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 583721

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Mike Weller
Bogdahn Group
4901 Vineland Road, Suite 600
Orlando, Florida 32811
(w/o enclosures)

Mr. Donald Eibsen
Buck Constlants
1200 17th Street, Suite 1200
Denver, Colorado 80202
(w/o enclosures)

Mr. Nelson Bush
The PFM Group
221 West 6th Street, Suite 1900
Austin, Texas 78701
(w/o enclosures)

Mr. Bob Hubbard
Gray & Company
3333 Piedmont Road, Suite 1250
Atlanta, Georgia 30305
(w/o enclosures)

Mr. Robert Longfield
Gavion
6000 Poplar Avenue, Suite 325
Memphis, Tennessee 38119
(w/o enclosures)

Ms. Ann DeLuce
Callan Associates
600 Montgomery Street, Suite 800
San Francisco, California 94111
(w/o enclosures)