



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 13, 2015

Ms. Leslie O. Haby  
Assistant Criminal District Attorney  
Civil Section  
County of Bexar  
101 West Nueva Street, 7th Floor  
San Antonio, Texas 78205

OR2015-21438

Dear Ms. Haby:

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# 583680.

Bexar County (the "county") received two requests from different requestors for the winning proposal and bid tabulations for a specified request for proposals. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of TRISTAR Insurance Group ("TRISTAR"). Accordingly, you state, and provide documentation showing, you notified TRISTAR 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) (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, you state the county sought clarification of the first request for information. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is

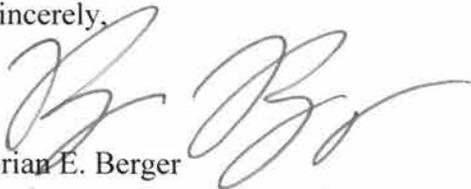
clarified or narrowed). You do not indicate the county has received a response to the request for clarification. Thus, the county is not required to release information in response to the portion of a request for which it sought, but did not receive, clarification. However, if the requestor clarifies or narrows this portion of the request for information, then the county must seek a ruling from this office before withholding any responsive information from the requestor. *See* Gov't Code § 552.222; *City of Dallas*, 304 S.W.3d at 387.

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 will give competitors "an unfair competitive advantage in current or future solicitations" and impair the county's contract negotiation position in future solicitations. After review of the information at issue and consideration of the arguments, we find the county has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the county 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,



Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

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<sup>1</sup>As our ruling is dispositive, we do not address your other argument to withhold this information.

Ref: ID# 583680

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)