



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 12, 2015

Mr. Jordan Hale  
Public Information Coordinator  
Assistant General Counsel  
Office of the Governor  
P.O. 12428  
Austin, Texas 78711

OR2015-23802

Dear Mr. Hale:

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# 586856 (OOG ID# 15-357).

The Office of the Governor (the "governor's office") received a request for the governor's schedule during a specified time period. You state you will release some information. You claim portions of the submitted information are excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note some of the requested information may have been the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2015-22210 (2015). We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the governor's office must continue to rely on Open Records Letter No. 2015-22210 as a previous determination and withhold or release the identical information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we will consider your argument for the submitted information not subject to the previous ruling.

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 state the governor’s office has specific marketplace interests in the information at issue because the governor’s office is competing with other states for the expansion and recruitment of businesses to the State of Texas. You explain the governor’s office is currently negotiating potential approvals or contracts with the entity at issue, and contracts with this entity have not been executed. You argue release of this information, before contracts are signed or final approval given, would disadvantage the state by permitting other states to directly approach this entity with competing incentives. After review of the information at issue and consideration of the arguments, we find the governor’s office has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the governor’s office may withhold the information it marked under section 552.104(a) of the Government Code.

In summary, the governor’s office must continue to rely on Open Records Letter No. 2015-22210 as a previous determination and withhold or release the identical information at issue in accordance with that ruling. The governor’s office may withhold the information it marked under section 552.104(a) of the Government Code. As no other exceptions to disclosure have been raised, the remaining information must be released.

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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/bhf

Ref: ID# 586856

Enc. Submitted documents

c: Requestor  
(w/o enclosures)