



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 1, 2016

Mr. Jonathan Miles  
Open Government Attorney  
Texas Department of Family and Protective Services  
Mail Code E611  
P.O. Box 149030  
Austin, Texas 78714-9030

OR2016-02331

Dear Mr. Miles:

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# 596205 (DFPS Reference No. 11022015MIW).

The Texas Department of Family and Protective Services (the "department") received a request for any business case and project management plan information related to specified projects. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. 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*, 466 S.W.3d 831, 841 (Tex. 2015). The department states the submitted information pertains to a competitive bidding situation. The department states the submitted information pertains to projects for which bids will be sought. The department states the submitted information includes "assumptions made, target dates, expected milestones, and, in certain cases, a financial analysis" for the specified projects. The department states releasing the submitted information would weaken the department's negotiating position by allowing bidders to tailor their responses. After review of the information at issue and

consideration of the arguments, we find the department has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the department 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](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,



Katelyn Blackburn-Rader  
Assistant Attorney General  
Open Records Division

KB-R/bw

Ref: ID# 596205

Enc. Submitted documents

c: Requestor  
(w/o enclosures)