



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 21, 2016

Ms. Katherine R. Fite  
Assistant General Counsel  
Texas Department of Information Resources  
P.O. Box 13564  
Austin, Texas 78711-3564

OR2016-06405

Dear Ms. Fite:

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# 603248.

The Texas Department of Information Resources (the "department") received a request for all information pertaining to the Quality Assurance Team during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.139 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of the Texas Department of Transportation ("DOT"). Accordingly, you state you notified DOT 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 § 552.304 (interested party may submit written comments stating why information should or should not be released). We have received comments from DOT. We have considered the submitted arguments 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." *Id.* § 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). DOT represents the submitted information pertains to a competitive bidding situation. In addition, DOT states the specific competitive procurement

is currently pending and release of the submitted information at this time would “undermine the contract procurement process.” After review of the information at issue and consideration of the arguments, we find DOT 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).<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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/bhf

Ref: ID# 603248

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not consider the department’s or DOT’s remaining arguments against disclosure.