



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 7, 2016

Ms. Jessica Vu  
Assistant General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR2016-12971

Dear Ms. Vu:

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# 613698 (OOG ID# 16-090).

The Office of the Governor (the "governor's office") received a request for the governor's schedule over a specified time period. You state the governor's office has released most of the requested 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.

Section 552.104 of the Government Code excepts from required public 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). You argue expansion and recruitment of businesses to the State of Texas is a competitive process and you inform us the governor's office "works tirelessly to promote Texas, in part by providing state resources to encourage business growth within the state." You state "Texas devotes substantial resources to programs designed primarily to attract new businesses to the state or assist with the substantial expansion of an existing business as part of competitive recruitment." You explain the governor's office is currently negotiating potential approvals or contracts with the business at issue, and contracts with this business have not been

executed. You argue release of this information, before contracts are signed or final approval given, would disadvantage Texas by permitting other states to directly approach this business and its representatives with competing incentives. Based on your representations and our review, we find you have demonstrated the governor's office has specific marketplace interests and may be considered a "competitor" for purposes of section 552.104. We also find you have demonstrated release of the information you have marked would give advantage to a competitor or bidder. Accordingly, the governor's office may withhold the information you marked under section 552.104 of the Government Code.

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,



Ian Lancaster  
Assistant Attorney General  
Open Records Division

IML/akg

Ref: ID# 613698

Enc. Submitted documents

c: Requestor  
(w/o enclosures)