



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 20, 2016

Mr. Jeffrey W. Giles
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 368
Houston, Texas 77001-0368

OR2016-21167

Dear Mr. Giles:

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# 627347 (GC No. 23579).

The City of Houston (the "city") received a request for information related to airport access fees collected and charged by Houston Hobby Airport and revenue from on airport parking during a specified time period. Although you take no position as to whether the submitted information is excepted under the Act, you state release of some of this information may implicate the proprietary interests of Uber Technologies, Inc. ("Uber"). Accordingly, you state, and provide documentation showing, you notified this third party of the request for information and of its right to submit arguments to this office as to why the information at issue 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 received comments from Uber. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the requestor only seeks information related to Houston Hobby Airport. Accordingly, the submitted information related to George Bush Intercontinental Airport is not responsive to the instant request. This ruling does not address the public availability of

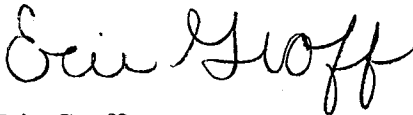
any information that is not responsive to the request and the city is not required to release such information in response to this request.

Uber claims its information is excepted under section 552.104 of the Government Code. Section 552.104(a) excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” Gov’t Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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.” *Id.* at 841. Uber states it has competitors. Uber also states disclosure of the information at issue could create an unfair advantage for competitors. In addition, Uber states by “[u]sing the [r]equested [i]nformation, competitors could use such calculations to fine-tune a business plan, raise funds and attract investors, and take business away from [Uber’s] driver partners.” After review of the information at issue and consideration of the arguments, we find Uber has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold Uber’s information under section 552.104(a) of the Government Code.¹ 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, 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,



Erin Groff
Assistant Attorney General
Open Records Division

EMB/eb

¹As our ruling is dispositive, we need not address Uber’s remaining arguments against disclosure of the information at issue.

Ref: ID# 627347

Enc. Submitted documents

c: Requestor
(w/o enclosures)