



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 29, 2016

Ms. Jo Ann Pate  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2016-26364

Dear Ms. Pate:

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# 635561 (PIR# W054902).

The City of Fort Worth (the "city") received a request for the file for bids for a police helicopter as well as records of communications with bidders or manufacturers. You state the city will release some information pending payment of a cost estimate. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Agusta Westland Philadelphia Corporation ("Agusta") and Airbus Helicopters, Inc. ("Airbus"). Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights 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 Airbus. We have considered the submitted arguments and reviewed the submitted information.

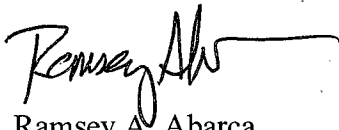
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's

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 state the submitted information relates to a competitive bidding situation and the city has not awarded the contract for the bid. You argue release of the information at issue would harm the city’s negotiation position. Upon review, we find the city has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the submitted information under section 552.104(a) of the Government Code.<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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/bw

Ref: ID# 635561

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we do not address the other arguments to withhold this information.