



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 9, 2016

Mr. Neal Falgoust  
Assistant City Attorney  
Law Department  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR2016-27309

Dear Mr. Falgoust:

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# 637209 (PIR#s 29416, 29417, 29418).

The City of Austin (the "city") received three requests from one requestor for communications between specified city entities related to three specified requests for proposals. 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 representative sample of information.<sup>1</sup>

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 represent the submitted information pertains to competitive bidding situations. You state the information responsive

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

to one request for proposal relates to a bidding process in which a winning bidder has not been selected. Further, you state the remaining information relates to two requests for proposals where a winning bidder has been selected but the contracts have neither been approved nor executed by the city. You assert disclosure of the submitted information would harm the city's competitive bidding process. After review of the submitted information and consideration of the arguments, 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.

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,



Kavid Singh  
Assistant Attorney General  
Open Records Division

KVS/bhf

Ref: ID# 637209

Enc. Submitted documents

c: Requestor  
(w/o enclosures)