



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 12, 2017

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

OR2017-07697

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# 652886 (GC No. 24087).

The City of Houston (the "city") received a request for the name of a specified Uber Technologies, Inc. ("Uber") driver. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Uber. Accordingly, you state, and provide documentation showing, you notified Uber 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 § 552.305(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 the name of the specified driver. Accordingly, the remaining submitted information is not responsive to the instant request. The city need not release non-responsive information in response to this request, and this ruling will not address that 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). A

private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831, 842 (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. In addition, Uber states release of the responsive information would allow its competitors to lure driver partners from Uber, to measure and assess the size of Uber’s market share, and undermine one of Uber’s key competitive advantages in the marketplace. After review of the information at issue and consideration of the arguments, we find Uber has established the release of the responsive information would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the responsive information under section 552.104(a) of the Government Code.¹

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,


Britni Ramirez
Assistant Attorney General
Open Records Division

BR/som

Ref: ID# 652886

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

¹As our ruling is dispositive, we need not address Uber’s remaining argument against disclosure.