



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 25, 2017

Mr. Michael Shaunessy
Counsel for City of Hutto
McGinnis Lochridge, LLP
600 Congress Avenue, Suite 2100
Austin, Texas 78701

OR2017-11469

Dear Mr. Shaunessy:

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# 659372.

The City of Hutto (the "city"), which you represent, received two requests from the same requestor for a specified category of information sent from a named individual to the city council. You state you have released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.104 and 552.105 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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 (Tex. 2015). You represent the information you marked pertains to competitive bidding situations. In addition, you state the information at issue

¹We 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 that those records contain substantially different types of information than that submitted to this office.

pertains to “projects that have not been announced for competitive bid yet, that are in the bidding process, or information about successful bids that, if disclosed, would allow competitors to undercut” each other in future similar bids. After review of the information at issue and consideration of the arguments, we find city has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude city may withhold the information you marked under section 552.104(a) of the Government Code.² The city must release the remaining information.

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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/bw

Ref: ID# 659372

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining argument against disclosure.