



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 1, 2017

Mr. Joseph R. Crawford
Assistant City Attorney
Legal Department
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2017-11990

Dear Mr. Crawford:

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# 660009 (ORR# 24169).

The City of Houston (the "city") received a request for information related to a specified request for proposals. The city claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, the city states release of the submitted information may implicate the proprietary interests of Republic Services; Fomento de Construcciones y Contratas, Inc; Friedman Recycling ("Friedman"); Independent Texas Recyclers, L.L.C.; and Waste Management of Texas, Inc. ("WMTI"). Accordingly, the city states, and provides documentation showing, it notified the third parties of the request for information and of the 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 Friedman and WMTI. We have reviewed the submitted information and the submitted arguments.

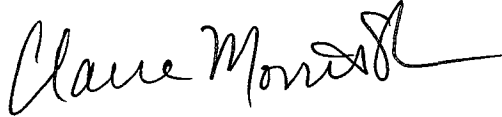
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether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

Co. v. Paxton, 466 S.W.3d 831 (Tex. 2015). The city represents the information at issue pertains to an ongoing competitive bidding situation in which a contract has not been awarded. In addition, the city states release of the information would allow competitors to undercut future bids when the city solicits bids for the same services. After review of the information at issue and consideration of the arguments, we find the city has established the release of the 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.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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 660009

Enc. Submitted documents

c: Requestor
(w/o enclosures)

5 Third Parties
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.