



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 27, 2017

Mr. Robert F. Johnson, III
Counsel for the Harris County Sports & Convention Corporation
Gardere Wynne Sewell, LLP
600 Congress Avenue, Suite 3000
Austin, Texas 78701

OR2017-16863

Dear Mr. Johnson:

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# 668607

The Harris County Sports & Convention Corporation ("HCSCC"), which you represent, received a request for a specified bid tabulation.¹ You claim some of the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of several third parties. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code* § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain

¹We note the HCSCC sought and received clarification of the request for information. *See Gov't Code* § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

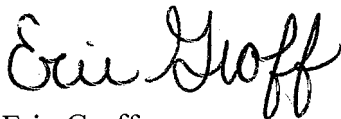
circumstances). You do not inform us which third parties you notified; however, we received comments from Aramark Sports & Entertainment Services of Texas, LLC and ISS Facility Services, Inc. We have considered the submitted arguments and reviewed the submitted information.

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 (Tex. 2015). You represent the information you have marked pertains to a competitive bidding situation. In addition, you state release of this information “would allow a bidder to adjust its bid to emphasize certain aspects while de-emphasizing others, thus depriving HCSCC of each bidder’s best proposal.” After review of the information at issue and consideration of the arguments, we find HCSCC has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude HCSCC may withhold the information it has marked under section 552.104(a).² HCSCC 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,



Erin Groff
Assistant Attorney General
Open Records Division

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²As our ruling is dispositive, we need not address the third parties’ arguments against disclosure of this information.

Ref: ID# 668607

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)