



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 5, 2017

Mr. Stephen T. Whitworth  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2017-22679

Dear Mr. Whitworth:

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# 678875 (COSA File No. W176483-071717).

The City of San Antonio (the "city") received a request for any e-mails sent to or from two named individuals relating to a specified matter during a specified time period, as well as data related to the specified matter during the same time period. 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 information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it was created after the request was received by the city. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release such information in response to this request.

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 pertains to a competitive bidding situation. In addition, you state release of the submitted information

“would disadvantage the [c]ity in its continuing negotiations with the selected concessionaire, or possibly, in the event that those negotiations are unsuccessful, in subsequent negotiations with a different proposer.” After review of the information at issue 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 responsive information under section 552.104(a).

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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/bw

Ref: ID# 678875 (COSA File No. W176483-071717).

Enc. Submitted documents

c: Requestor  
(w/o enclosures)