



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 18, 2017

Mr. Renato Garcia
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2017-28652

Dear Mr. Garcia:

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# 688097 (City File No. 1142).

The City of Corpus Christi (the "city") received a request for information pertaining to a specified bid proposal. The city states it will release some of the requested information to the requestor. The city claims the submitted information is excepted from disclosure under section 552.110 of the Government Code. The city also states release of this information may implicate the proprietary interests of AMT Auction Marketing, LLC ("AMT"). The city notified AMT of its receipt of the request for information and of AMT's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 AMT. We have considered the submitted arguments and reviewed the submitted information.

AMT asserts its information is excepted from public disclosure under section 552.104 of the Government Code. Section 552.104(a) 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 (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. AMT states it has competitors. In addition, AMT states release of its information would give advantage to its competitors. After review of the information at issue and consideration of the arguments, we find AMT has established the release of the submitted information would give advantage to a competitor or bidder. Accordingly, 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,



James M. Graham
Attorney
Open Records Division

JMG/eb

Ref: ID# 688097

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

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