



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 13, 2019

Mr. Benjamin Lugg  
Attorney  
San Antonio Housing Authority  
818 South Flores Street  
San Antonio, Texas 78204

OR2019-04217

Dear Mr. Lugg:

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# 748198 (Ref. No. W001880-110618).

The San Antonio Housing Authority (the "authority") received a request for nine categories of information pertaining to specified research. You state the authority will release information responsive to categories five and six of the present request to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, 552.105, and 552.110 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of a named individual. Accordingly, you state, and provide documentation showing, you notified the named individual of the request for information and of her 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 on behalf of the named individual. We have considered the submitted arguments and reviewed the submitted information.

Initially, you claim the authority does not have information responsive to categories one, two, eight, and nine of the present request for information. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new

information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 561 at 8-9 (1990), 555 at 1-2. Because you have submitted information responsive to categories one and two of the present request for our review, we believe the authority has made a good-faith effort to submit information responsive to the request. Thus, we will consider the submitted arguments to withhold the information at issue.

Next, we note the authority states it sought clarification of categories three, four, and seven of the present request for information. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). We understand the authority has not received a response from the requestor for these portions of the request. Accordingly, the authority has no obligation at this time to release any information that might be responsive to these categories of the request. However, if the authority receives clarification and wishes to withhold any of the information encompassed by the clarified request, the authority must request another decision from this office at that time. *See id.* §§ 552.301, .302; *see also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). As the authority has submitted documents responsive to category four of the present request for our review, we will consider the submitted arguments to withhold the information at issue.

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 authority informs us the submitted information pertains to an ongoing analysis used by the authority to secure grant funding and determine how grant monies will be utilized. We understand the authority to assert it has specific marketplace interests in the information at issue because the authority competes with other housing authorities. The authority further states release of the information would give an advantage to industry competitors and cause harm to its competitive interests. After review of the information at issue and consideration of the arguments, we find the authority has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the authority may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</sup>

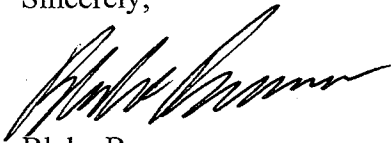
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<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

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](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,



Blake Brennan  
Attorney  
Open Records Division

BB/eb

Ref: ID# 748198

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)