



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 21, 2019

Ms. Monica Trevino-Ortega  
Public Information Officer  
San Antonio River Authority  
100 East Guenther Street  
San Antonio, Texas 78204

OR2019-07939

Dear Ms. Trevino-Ortega:

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# 754977.

The San Antonio River Authority (the "authority") received a request for specified evaluative documents and the winning proposal pertaining to a specified request for qualifications. Although you take no position as to whether the submitted information is excepted from disclosure under the Act, you state release of this information may implicate the proprietary interests of Texas Creative Ltd., LLP ("Texas Creative"). Accordingly, you state the authority notified Texas Creative of the request for information and of its 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 Texas Creative. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the authority has only submitted portions of Texas Creative's proposal in response to the present request. To the extent any additional information responsive to the request existed on the date the authority received the request, we assume you have already

released it. If the authority has not released any such information, it must do so at this time. See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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). 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. Texas Creative asserts section 552.104 for portions of the submitted information. Texas Creative states it has competitors. Further, Texas Creative states the release of the information at issue “would cause irreparable damage to [its] business and would give its competitors an undue economic and competitive advantage.” After review of the information at issue and consideration of the arguments, we find Texas Creative 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 information at issue, which we have indicated, under section 552.104(a) of the Government Code.<sup>1</sup> As no exceptions to disclosure have been raised for the remaining information, the authority must release it.

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/gw

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

Ref: ID# 754977

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Third Party  
(w/o enclosures)