



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 24, 2019

Ms. Gloria E. Barnes  
Public Information Coordinator  
Capital Metro Transport Authority  
2910 East 5th Street  
Austin, Texas 78702

OR2019-13875

Dear Ms. Barnes:

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# 767403 (#2019-03-605).

The Capital Metro Transport Authority (the "authority") received a request for three categories of information pertaining to a specified contract. Although the authority takes no position as to whether the submitted information is excepted under the Act, it states release of this information may implicate the proprietary interests of RATP Dev USA, Inc. ("RATP"). Accordingly, the authority states, and provides documentation demonstrating, it notified this third party of the request for information and of its right to submit arguments to this office as to why the information at issue 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 RATP. We have considered the submitted argument and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note RATP argues against the disclosure of information the authority has not submitted to this office for review. This ruling does not address information that was not submitted by the authority and is limited to the information submitted as responsive by the authority.<sup>1</sup> *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested).

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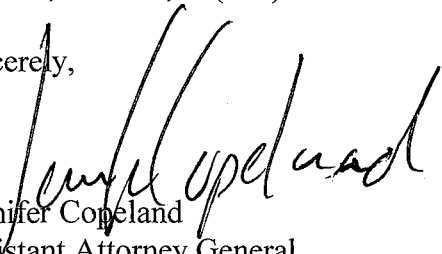
<sup>1</sup>As we are able to make this determination, we need not address RATP's arguments against disclosure of this information.

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). 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. RATP states it has competitors. In addition, RATP states release of some of its information at issue would provide an advantage to its competitors. After review of the information at issue and consideration of the arguments, we find RATP has established the release of its information at issue would give advantage to a competitor or bidder. Thus, we conclude the authority may withhold the information we marked under section 552.104(a) of the Government Code. The authority 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](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,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/mo

Ref: ID# 767403

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)