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ATTORNEY GENERAL OF TEXAS

July 11, 2019

Mr. Frank J. Garza
Counsel for the City of Rockwall
Davidson Troilo Ream & Garza PC
601 Northwest Loop 410, Suite 100
San Antonio, Texas 78216-5511

OR2019-18838

Dear Mr. Garza:

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# 774691 (Ref. No. W007044-042219).

The City of Rockwall (the "city"), which you represent, received a request for seven categories of information pertaining to economic incentives from a specified time period. You state the city will release some information. You state the city has no information responsive to portions of the request.¹ You claim some of the submitted information is excepted from disclosure under sections 552.104 and 552.131 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We understand the city to raise section 552.104 of the Government Code on behalf of the Rockwall Economic Development Corporation (the "corporation"). 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). 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 city


¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

states the corporation has specific marketplace interests in the information at issue because “[t]he [c]orporation is competing against other development companies and agencies in the area” to bring private companies to the city. In addition, the city states release of the information at issue would “allow others to possibly lure potential and current businesses away.” After review of the information at issue and consideration of the arguments, we find the city has established the release of the information you marked would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the information you marked under section 552.104(a) of the Government Code on behalf of the corporation.² The city 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, 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/gw

Ref: ID# 774691

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining argument under section 552.131 of the Government Code.