



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 12, 2019

Ms. Karen M. Kennard
Counsel for the Austin Convention and Visitor's Bureau d/b/a Visit Austin
Greenberg Traurig, LLP
300 West 6th Street, Suite 2050
Austin, Texas 78701

OR2019-22182

Dear Ms. Kennard:

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# 780671.

The Austin Convention and Visitors Bureau d/b/a Visit Austin ("Visit Austin"), which you represent, received a request for (1) a copy of Visit Austin's most recent filing of a specified form, (2) the e-mail addresses of all Visit Austin Staff, (3) the meeting minutes from specified meetings, and (4) information pertaining to Visit Austin's relationship with unspecified musicians. You state Visit Austin released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

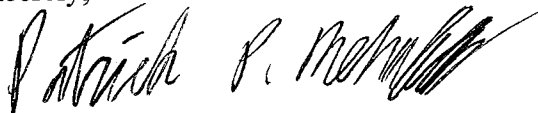
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You state Visit Austin has specific marketplace interests in the information at issue because Visit Austin competes with other direct marketing organizations from around the world to attract conventions, events, and tourists to the City of Austin. In addition, you state release of the information you marked would "put Visit Austin at a disadvantage" by allowing competing direct marketing organizations to "look into Visit Austin's strategy for how it positions itself in the market." You seek to withhold the terms of contracts. For many years, this office concluded the terms of a contract and especially the pricing of a winning bidder are public and generally not excepted from disclosure. Gov't Code § 552.022(a)(3) (contract involving receipt or expenditure of public funds expressly made public); Open Records Decision Nos. 541 at 8

(1990) (public has interest in knowing terms of contract with state agency), 514 (1988) (public has interest in knowing prices charged by government contractors), 494 (1988) (requiring balancing of public interest in disclosure with competitive injury to company). *See generally* Freedom of Information Act Guide & Privacy Act Overview, 219 (2000) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). However, now, pursuant to *Boeing*, section 552.104 is not limited to only ongoing competitive situations, and it need only be shown release of competitively sensitive information would give an advantage to a competitor even after a contract is executed. *Boeing*, 466 S.W.3d 831, at 831, 842. After review of the information at issue and consideration of the arguments, we find Visit Austin established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude Visit Austin may withhold the information you marked under section 552.104(a) of the Government Code.¹ As no exceptions remain, Visit Austin 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Patrick P. Mehaffy
Assistant Attorney General
Open Records Division

PPM/mo

Ref: ID# 780671

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ As our ruling is dispositive, we need not address your remaining argument against the disclosure of this information.