



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 25, 2019

Mr. Neal Falgoust  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR2019-26839

Dear Mr. Falgoust:

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# 787816 (PIR C036355).

The City of Austin (the "city") received a request for seven categories of information pertaining to events held in the city.<sup>1</sup> You claim some of the submitted information is excepted from disclosure under sections 552.104 and 552.124 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup> We note the city asked for and received clarification regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad 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).

<sup>2</sup> We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Section 552.104(a) of the Government Code exempts 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, 841 (Tex. 2015). You assert the city has a specific marketplace interest in the information you marked because the Austin Convention Center (the “convention center”) competes with other public and private venues to attract events and meetings to its facility. You state releasing the information you have marked “would put the convention center at a competitive disadvantage by revealing the convention center’s rate structure and allowing other competitors to undercut the convention center’s rates.” 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.

Section 552.124 of the Government Code makes confidential, with certain exceptions that are not applicable here, “[a] record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service[.]” Gov’t Code § 552.124(a)-(b); *see also* Open Records Decision No. 100 at 3 (1975) (identifying information of library patrons in connection with object of their attentions is confidential by constitutional law). We note only names, addresses, and other information specifically identifying library patrons may be withheld under section 552.124. *See* Open Records Decision No. 649 at 3 (1996) (confidentiality provisions strictly construed). Upon review, we find some of the information you have marked identifies an individual who requested, obtained, or used library materials or services. Therefore, the city must withhold the information we marked under section 552.124 of the Government Code. However, you have failed to demonstrate the remaining information specifically identifies or serves to identify a person who requested, obtained, or used a library material or service, and the city may not withhold it under section 552.124 of the Government Code.


In summary, the city may withhold the information you marked under section 552.104(a) of the Government Code. The city must withhold the information we marked under section 552.124 of the Government Code. 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 <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,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/mo

Ref: ID# 787816

Enc. Submitted documents

c: Requestor  
(w/o enclosures)