



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 9, 2019

Mr. Joseph Harney  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2019-28323

Dear Mr. Harney:

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# 790441 (ORR Nos. W275088, W275682, W277516, & W284148).

The City of San Antonio (the "city") received four requests from different requestors for information related to request for proposals number 19-077. The city claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, the city states release of the submitted information may implicate the proprietary interests of Veo Ride; Spin; Razor USA, L.L.C.; Ojo Electric, L.L.C.; Neutron Holdings, d/b/a Lime ("Lime"); Wheels; Bird Rides, Inc.; Frog Scooter US Southeast, L.L.C.; and Lyft, Inc. ("Lyft"). Accordingly, the city states, and provides documentation showing, it notified the third parties of the request for information and of the 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 Lime and Lyft. We have reviewed the submitted arguments and the submitted information. We have also received and considered comments from a representative for the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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). The city represents the information at issue pertains to a competitive bidding situation in which proposals have been received and are being evaluated, but a recommendation for a contract has not been made and a contract has not been awarded. Thus, the city states release of the submitted information would cause harm to the city’s bargaining position and its ability to secure the most advantageous contract possible. After review of the information at issue and consideration of the arguments, we find the city has established the release of the information would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</sup>

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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/rm

Ref: ID# 790441

Enc. Submitted documents

c: 4 Requestors  
(w/o enclosures)

9 Third parties  
(w/o enclosures)

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