



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 12, 2019

Mr. Ryan D. Pittman
Counsel for the City of Frisco
Abernathy Roeder Boyd Hullett
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75070-1210

OR2019-35048

Dear Mr. Pittman:

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# 801360 (GovQA ID# G036593).

The City of Frisco (the "city"), which you represent, received a request for information pertaining to a specified request for qualifications. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Randall Scott Architects ("RSA"). Accordingly, you state, and provide documentation showing, you notified RSA of the request for information and of its 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 552.3052 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 RSA. We have considered the submitted arguments 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). 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. RSA states it has competitors. In addition, RSA states disclosure of its information would put the company at a great disadvantage in the marketplace. After

review of the information at issue and consideration of the arguments, we find RSA has established the release of the information at issue 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.

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,

A handwritten signature in cursive script that reads "D. Michelle Case". The signature is written in black ink and includes a long horizontal flourish at the end.

D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/be

Ref: ID# 801360

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)