



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 6, 2020

Ms. Tammie Curtis-Jones
Attorney
Houston Housing Authority
2640 Fountain View Drive
Houston, Texas 77057

OR2020-20644A

Dear Ms. Curtis-Jones:

This office issued Open Records Letter No. 2020-20644 (2020) on August 18, 2020. We have examined this ruling and determined we will correct the previously issued ruling. *See generally* Gov't Code § 552.011 (providing that Office of the Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of the Public Information Act (the "Act")). Consequently, this decision serves as the correct ruling and is a substitute for Open Records Letter No. 2020-20644. Your request was assigned ID# 853499.

The Houston Housing Authority (the "authority") received a request for the winning bidder's submitted proposal pertaining to a specified request for proposals. You claim some of the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of the information at issue may implicate the proprietary interests of certain third parties. Accordingly, you state, and provide documentation demonstrating, the authority notified these third parties of the request for information and of their 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 MasterWord Services, Inc. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the present request for information because it does not consist of the winning bidder's proposal pertaining to the request for proposals specified in the present request. This ruling does not address the public availability of any information that is not responsive to the request and the authority is not required to release such information in response to the present request.

You assert the responsive information is excepted from disclosure under section 552.104(a) of the Government Code. Section 552.104(a) excepts from disclosure information that a governmental body demonstrates, if released, would “harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.” 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). After review of the information at issue and consideration of the arguments, we find you have established release of the responsive information would harm the authority’s interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation. Accordingly, the authority may withhold the responsive information under section 552.104(a) of the Government Code.¹

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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/gw

Ref: ID# 853499

c: Requestor

c: Third Party

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