



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 21, 2020

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

OR2020-21075

Dear Ms. Curtis-Jones:

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# 841107.

The Houston Housing Authority (the "authority") received a request for information pertaining to a specified request for proposal. You claim some of the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we understand the requestor to contend the authority failed to comply with section 552.301(b) of the Government Code in requesting a ruling from this office. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). The authority states the request was sent by the requestor via e-mail on April 22, 2020. However, the authority states it was closed from March 25, 2020 to May 29, 2020. Accordingly, the authority is considered to have received the request on June 1, 2020. The authority does not inform us it was closed for any business days between June 1, 2020 and June 15, 2020. Accordingly, the authority was required to provide the information required by section 552.301(b) by June 15, 2020. The envelope in which the authority provided the information required by section 552.301(b) was postmarked June 15, 2020. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the authority complied with the procedural

requirements mandated by section 552.301 of the Government Code. Therefore, we will consider the authority's claimed exception to disclosure of the submitted information.

Section 552.104(a) of the Government Code 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." *Id.* § 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 the authority has established the release of the information at issue would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation. Thus, we conclude the authority may withhold Exhibits 5 and 6 under section 552.104(a) of the Government Code. The authority 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,

Matthew Taylor  
Assistant Attorney General  
Open Records Division

MT/rm

Ref: ID# 841107

Enc. Submitted documents

c: Requestor  
(w/o enclosures)