



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 19, 2022

Ms. Nancy Gonzalez
Open Records Coordinator

Ms. Tasheena L. Byrd
Assistant City Attorney
City of Dallas
1500 Marilla Street, Room 5DS
Dallas, Texas 75201

OR2022-11354

Dear Ms. Gonzalez and Ms. Byrd:

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# 942309 (Ref. No. C000716-012122).

The City of Dallas (the "city") received a request for information pertaining to two specified bid solicitations.¹ You state the city will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. Additionally, you state release of the information at issue may implicate the proprietary interests of the following third parties: AshBritt, Inc.; Family Endeavors, Inc. d/b/a Endeavors; Family Gateway; Finally Home Foundation; Infection Controls, Inc. d/b/a GermBlast; L & D Hot Service, LLC; Lipsey Logistics Worldwide, LLC; MBW Serv Corporation; Shelter Ministries of Dallas d/b/a Austin Street Center; SLSCO; The Precious Nwachinemere Foundation ("PNF"); The Salvation Army; and Whittaker Lane Contracting, LLC. Accordingly, you state, and provide documentation demonstrating, the city notified these interested third parties of the request for information and of their right to submit arguments to this office as to why the submitted information

¹ You state, and provide documentation demonstrating, the city sought and received clarification of the information requested. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

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 Family Gateway and PNF. We have considered the submitted arguments and reviewed the submitted representative sample of information.²

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.” 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 the release of the information at issue would harm the city's interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation. Accordingly, we conclude the city may withhold the information at issue under section 552.104(a) of the Government Code.³

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/be

² We assume that 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 that those records contain substantially different types of information than that submitted to this office.

³ As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

Ref: ID# 942309

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 13 Third Parties
(w/o enclosures)