



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 11, 2016

Mr. Robert R. Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606

OR2016-00786

Dear Mr. Ray:

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# 593705.

The City of Longview (the "city") received a request for the site diagram, shell sizes and quantities, contract price, and a copy of the winning bid for a specified RFP. You state the city has released some of the information. Although you take no position with respect to the public availability of the submitted information, you state the proprietary interests of a third party might be implicated. Accordingly, you notified Pyro Shows of Texas ("Pyro") of the request and of its right to submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from Pyro. 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. Pyro states it has competitors. In addition, Pyro states release of the submitted information would give an advantage to a competitor or bidder. After review of the information at issue and consideration of the arguments, we find Pyro 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).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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

KB-R/akg

Ref: ID# 593705

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Steve Frantz
Pyro Shows of Texas, Inc.
6601 Nine Mile Azle Road
Fort Worth, Texas 76135
(w/o enclosures)

¹As our ruling is dispositive, we need not address Pyro’s remaining argument against disclosure.