



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 18, 2016

Ms. Tiffany Evans
Assistant City Attorney
Legal Department
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2016-03826

Dear Ms. Evans:

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# 598843 (GC No. 22854).

The City of Houston (the "city") received a request for all correspondence, including e-mails, memoranda, faxes, or letters, between the mayor, the mayor's senior staff, or city council members pertaining to a specified program during a specified time period. Additionally, the requestor also seeks portions of the mayor's and another named individual's calendars involving the attendance of three named individuals or representatives of a specified firm. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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). 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 (Tex. 2015). You represent the submitted

¹We assume 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.

information pertains to a competitive bidding situation. In addition, you state release of the submitted information before the contract at issue has been approved “would present a clear threat of harm to the [c]ity’s ability to obtain the lowest possible price in the current . . . bidding process.” After review of the information at issue and consideration of the arguments, we find city has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude city may withhold the submitted information under section 552.104(a).²

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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 598843

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining argument under section 552.107 of the Government Code.