



January 30, 2015

Mr. Frank L. Melton
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2015-00625A

Dear Mr. Melton:

Our office issued Open Records Letter No. 2015-00625 (2015) on January 13, 2015. We have examined this ruling and determined that an error was made in its issuance. When this office determines that an error was made in the decision process under sections 552.301 and 552.306 of the Government Code, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on January 13, 2015. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"))).

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# 550551 (COSA File No. W035057-102414).

The City of San Antonio (the "city") received a request for copies of a specified form submitted by each of the selected bidders of a specified request for proposals.¹ You claim

¹We note the city sought and received clarification of this request from the requestor. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

the submitted information is excepted from disclosure under section 552.104 of the Government Code.² In addition, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified the 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.³ *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 received comments from Con-Cor and Sabinal. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it does not consist of the specified form. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release such information in response to this request.

Next, we note the submitted responsive information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2015-01231 (2015). In that ruling, we concluded none of the responsive information may be withheld under section 552.104 or section 552.110 of the Government Code, and therefore, the city must release the responsive information. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the city must continue to rely on Open Records Letter No. 2015-01231 as a previous determination and release the submitted responsive information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

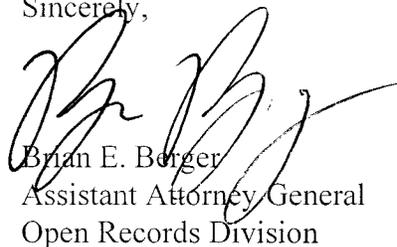
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²Although you raise section 552.107 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the requested information. *See* Gov't Code §§ 552.301, .302.

³The third parties notified were Alpha Building Corporation; Con-Cor, Inc. ("Con-Cor"); Davila Construction, Inc.; Eaton Commercial, L.P.; F.A. Nunnally Co.; Horizon Group International; Healthy Resources Enterprise, Inc.; Jamail and Smith Construction; Kellogg Brown & Root; and The Sabinal Group ("Sabinal").

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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 550551

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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