



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 23, 2015

Mr. Michael S. Copeland
Deputy City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR2015-14987

Dear Mr. Copeland:

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# 572788.

The City of Denton (the "city") received a request for the final agreement, bid tabulation, comparison tabulations, and the best and final offer responses from all bidders for a specified request for proposals. You state you have released some information to the requestor. You claim the submitted client list is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. Additionally, you indicate release of the submitted information may implicate the proprietary interests of American Business Electronics, Inc. ("ABE"). You provide documentation showing you notified ABE of the request for information and of the company's right to submit arguments to this office as to why the submitted information 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 considered the exceptions you claim and reviewed the submitted information.

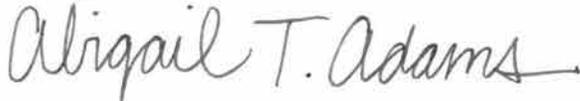
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, No. 12-1007, 2015 WL 3854264, at *9 (Tex. June 19, 2015). You represent the submitted information pertains to a competitive bidding situation. In addition, you state the submitted client list is confidential and proprietary information that would be of great interest to competitors in a bidding situation. After review of the information at

issue and consideration of the arguments, we find the city has established the release of the information at issue would give an advantage to a competitor or bidder. Thus, we conclude the city may withhold the submitted information under section 552.104(a) of the Government Code.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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/bhf

Ref: ID# 572788

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Joseph Kearley
American Business Electronics
1901 Royal Lane, Suite 102
Dallas, Texas 75229
(w/o enclosures)

¹As our ruling is dispositive, we do not address your remaining argument against disclosure.