



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 14, 2015

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

OR2015-16878

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# 575387 (GC# 22414).

The City of Houston (the "city") received a request for information relating to the bidding on a specified public works project from a specified time period. You claim the submitted information is excepted from disclosure under sections 552.104, 552.107, and 552.111 of the Government Code. You also state release of the requested information may implicate the proprietary interests of Huff & Mitchell, Inc. and CYMI Industrial, Inc. You state, and provide documentation showing, you have notified these third parties of this request for information and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

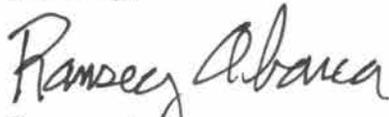
¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 city’s initial bidding process was rejected and the city is currently in the process of seeking re-bids for the project at issue with other entities. You further state the city’s negotiating position in the bidding process will be compromised by release of the submitted information. After review of the submitted information and consideration of the arguments, we find the city has established the release of the submitted information would give 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.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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 575387

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Mr. Jeff Heflin
Huff & Mitchell, Inc.
13666 Kluge
Cypress, Texas 77424
(w/o enclosures)

Mr. Clifford L. Tubbs
CYMI Industrial, Inc.
815 Walker Street
Houston, Texas 77002
(w/o enclosures)