



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 9, 2015

Mr. Daniel W. Ray  
Counsel for the City of Greenville  
Scott & Ray, PLLC  
P.O. Box 1353  
Greenville, Texas 75403-1353

OR2015-18810

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# 578457.

The City of Greenville (the "city"), which you represent, received a request for the bid tabulation report, the bid analysis, and the winning bid for a specified request for proposals. The city claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception the city claims and reviewed the submitted information.

Initially, we note the city has only submitted the winning bid at issue. The city has not submitted the bid tabulation or the bid analysis. We assume, to the extent any information responsive to this portion of the request existed on the date the city received the request, the city has released it. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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). The city states the submitted information contains proprietary information relating to a third party.

Upon review, we find the city has failed to demonstrate the release of the information at issue would give advantage to a competitor or bidder. Thus, the city may not withhold the submitted information under section 552.104(a).

We note some of the submitted information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. As no other exceptions are raised, the city must release the submitted information; however, any information subject to copyright may be released only in accordance with copyright law.

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](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,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/bhf

Ref: ID# 578457

Enc. Submitted documents

c: Requestor  
(w/o enclosures)