



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 19, 2015

Mr. Richard A. McCracken
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2015-21864

Dear Mr. McCracken:

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# 583495 (Ref No. W044460).

The City of Fort Worth (the "city") received a request for the presentation and proposal submitted by the winning bidder in reference to RFP 15-0191. The city claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, the city informs us release of this information may implicate the proprietary interests of nCourt, LLC. Accordingly, the city states, and provides documentation showing, it notified the third party of the request for information and of its right to submit arguments to this office as to why the information at issue 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 received comments from a representative of the requestor. *See* Gov't Code §§ 552.304 (interested party may submit written comments regarding availability of requested information). We have considered the submitted arguments 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." *Id.* § 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 at 841 (Tex. 2015). The city represents the information pertains to a competitive bidding situation. In addition, the city states the information relates to a contract, final execution of which has not yet occurred. 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 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.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 583495

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Tony Clancey
CEO
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(w/o enclosures)