



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 28, 2015

Ms. Jacqueline E. Hojem
Public Information Coordinator
Metropolitan Transit Authority of Harris County
P.O. Box 61429
Houston, Texas 77208

OR2015-22640

Dear Ms. Hojem:

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# 585067 (MTA No. 2015-0351).

The Metropolitan Transit Authority of Harris County ("METRO") received a request for four categories of information related to a specified request for proposal, including scoring sheets and notes of members of the evaluation committee. You state you released some information. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information, a portion of which is a representative sample.¹

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*, 466 S.W.3d 831, 841 (Tex. 2015). You represent the information pertains to a competitive bidding situation. You state the submitted information relates to a contract that

¹We assume 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.

not yet been negotiated or awarded. Additionally, you state because METRO is still negotiating the final terms and conditions of the contract, releasing the submitted information would give a competitive advantage to a competitor or other bidder. You further state this would, in turn, harm METRO's ability to obtain the best value and most favorable terms possible. After review of the submitted information and consideration of the arguments, we find METRO has established the release of the information at issue would give an advantage to a competitor or bidder. Thus, we conclude METRO 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,



Mili Gosar
Assistant Attorney General
Open Records Division

MG/akg

Ref: ID# 585067

Enc. Submitted documents

c: Requestor
(w/o enclosures)