



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 13, 2016

Ms. Lisa Biediger
Assistant City Attorney
Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2016-01034

Dear Ms. Biediger:

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# 593988 (COSA File No. W100525-102015).

The City of San Antonio (the "city") received a request for all proposals submitted in response to a specified request for proposal. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of this information may implicate the proprietary interests of Aramark Sports & Entertainment ("Aramark"), Black Tie Affairs Catering, Inc. ("Black Tie"), Ovation Food Services, LP ("Ovation"), Selrico Services, Inc. ("Selrico"), SMG Food and Beverage, LLC ("SMG"), and Tx Fin Food and Beverage ("Tx Fin"). Accordingly, you state you notified these parties of the request for information and of their rights 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 Aramark and Ovation. We have reviewed the submitted information and considered the submitted arguments.

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 (Tex. 2015). You represent the submitted

information pertains to a competitive bidding situation. In addition, you state the city is currently reviewing proposals and no contract has been awarded. 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).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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 593988

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Richard P. Ojeda
Black Tie Affairs Catering
1515 Rogers Avenue
San Antonio, Texas 78208
(w/o enclosures)

Mr. Joe Huerta
Texas Fine Food and Beverage
24011 Prestige Drive
San Antonio, Texas 78260
(w/o enclosures)

¹As our ruling is dispositive, we need not address the third parties' arguments against disclosure.

Mr. Jack Wixted
Vice President
Associate General Counsel
Aramark
1101 Market Street
Philadelphia, Pennsylvania 19107
(w/o enclosures)

Mr. John R. Aleman
President
Selrico Services
717 West Ashby Place
San Antonio, Texas 78212
(w/o enclosures)

Mr. Robert Auritt
Vice President
Deputy General Counsel
Spectra Food Services & Hospitality
3601 South Broad Street
Philadelphia, Pennsylvania 19148
(w/o enclosures)

Mr. Shaun Beard
Vice President
SMG Food and Beverage
Suite 770
300 Conshohocken State Road
West Conshohocken, Pennsylvania 19428
(w/o enclosures)