



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 25, 2016

Ms. Leticia Brysch  
City Clerk  
City of Baytown  
PO Box 424  
Baytown, Texas 77522-0424

OR2016-09121

Dear Ms. Brysch:

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# 607159 (CoB PIR# 6009).

The City of Baytown (the "city") received a request for bid information pertaining to a specified project. 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.

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). The city represents the information at issue pertains to a competitive bidding situation. You inform us the original bidding window open and closed with only one bid received. You explain the bid was rejected by the Baytown Area Water Authority (the "authority"), a component unit of the city. You further explain the authority plans to rebid the project. You contend release of the information at issue would "negatively impact the ongoing competitive bidding process by giving others information about the [p]roject that will give them a competitive edge on the bid and/or hinder the [c]ity's ability to attain more favorable bids." After review of the information at issue 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.

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,

A handwritten signature in black ink, appearing to read "Gerald A. Arismendez". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/dls

Ref: ID# 607159

Enc. Submitted documents

c: Requestor  
(w/o enclosures)