



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 28, 2017

Mr. Andrew D. Clark  
Counsel for Heart of Texas Workforce Development Board, Inc.  
Naman Howell Smith & Lee, P.L.L.C.  
P.O. Box 1470  
Waco, Texas 76703-1470

OR2017-06290

Dear Mr. Clark:

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# 653579.

The Heart of Texas Workforce Development Board, Inc. (the "board"), which you represent, received a request for information pertaining to a specified solicitation number. The board claims the requested information is excepted from disclosure under section 552.104 of the Government Code. The board also states, and provides documentation showing, it notified the winning bidder of the board's receipt of the request for information and of the winning bidder's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 considered the claimed exception and reviewed the submitted information.

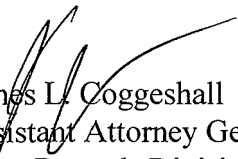
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831, 841 (Tex. 2015). The board informs us the submitted information consists of a winning proposal that resulted in a contract. Nevertheless, the

board asserts the information pertains to a competitive bidding situation because the board “will begin a re-bid for these services in a few years for the same program and will use the same evaluation.” Thus, the board argues release of the information would adversely impact its ability to fairly negotiate future contracts by placing bidders at a competitive advantage. Upon review, we conclude the board has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the board 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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/bw

Ref: ID# 653579

Enc. Submitted documents

c: Requestor  
(w/o enclosures)