



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 5, 2017

Ms. Ramit Plushnick-Masti
Director of Communications/PIO
Houston Forensic Science Center
1301 Fannin, Suite 170
Houston, Texas 77002

OR2017-09746

Dear Ms. Plushnick-Masti:

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# 656858.

The Houston Forensic Science Center (the "center") received a request for the scoring sheets and monetary value associated with a bid submitted in response to a specified request for proposals. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Bode Cellmark Forensics, Inc. Accordingly, you state you notified the third party of the request for information and of its right to submit arguments to this office as to why the submitted information 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 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 center represents the information at issue pertains to a competitive bidding situation in which a contract has not yet been executed. In

addition, the center states release of the submitted information would place the center at a competitive disadvantage in potential future negotiations. After review of the information at issue and consideration of the arguments, we find the center has established the release of the information would give advantage to a competitor or bidder. Thus, we conclude the center 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/bw

Ref: ID# 656858

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)