



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 15, 2019

Mr. Andrew Wipke  
Assistant District Attorney  
Lubbock County District Attorney's Office  
904 Broadway, Second Floor  
Lubbock, Texas 79401

OR2019-01210

Dear Mr. Wipke:

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# 746328 (LC ORR.1108).

Lubbock County (the "county") received a request for information pertaining to agreements between the county and NAAG Pathology Labs, P.C. ("NAAG"). Although the county takes no position as to whether the submitted information is excepted under the Act, the county states release of the submitted information may implicate the proprietary interests of NAAG. Accordingly, the county states, and provides documentation showing, it notified NAAG 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 received comments from NAAG. We have reviewed the submitted information and the submitted arguments.

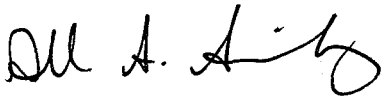
NAAG asserts portions of the submitted information are protected under section 552.104 of the Government Code. Section 552.104(a) excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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.” *Id.* at 841. NAAG states it has competitors. In addition, NAAG states release of the information at issue would allow its competitors “to accurately estimate and undercut its future bids, harm its ability to bid and negotiate competitive contracts, [and] harm its negotiating interests[.]” After review of the information at issue and consideration of the arguments, we find NAAG has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the county may withhold the information we have indicated under section 552.104(a) of the Government Code. The county must release the remaining information.

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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/som

Ref: ID# 746328

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)