



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 17, 2019

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

OR2019-01593

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# 746638.

The Heart of Texas Workforce Development Board (the "board"), which you represent, received a request for certain information pertaining to a specified bid number. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state you notified the Economic Opportunities Advancement Corporation 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). You state the submitted information contains the requested bid tabulation and contract information. You inform us the information pertains to a recurring bidding process, and state release of the submitted information would

give vendors a competitive advantage and have a detrimental effect on the board's ability to evaluate and award future bids and contracts. After review of the information at issue and consideration of the arguments, we find the board has established the release of the submitted information would give advantage to a competitor or bidder. Accordingly, 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, 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/gw

Ref: ID# 746638

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)