



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 19, 2019

Ms. Ann-Marie Sheely
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2019-04567

Dear Ms. Sheely:

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# 751175 (652854-1).

The Travis County Healthcare District d/b/a Central Health (the "district") received a request for the current financial qualification standards and criteria used to assess applicant eligibility for the district's sliding scale program and current sliding scale fee schedule costs. You state the district has released information. You claim the requested information is excepted from disclosure under section 552.104 of the Government Code. In addition, you state the requested information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified Austin Radiological Association; Austin Regional Clinic, P.A.; Capital Anesthesiology Association ("CAA"); Clinical Pathology Associations ("CPA"); Clinical Pathology Laboratories, Inc.; Central Texas Community Health Centers d/b/a CommUnityCare ("CommUnityCare"); Community Care Collaborative ("CCC"); El Buen Samaritano Episcopal Mission; Integral Care; Lone Star Circle of Care ("LSCC"); Northwest Surgery Center; People's Community Clinic; SIMS Foundation; Travis County Medical Society; United Surgical Partners, International; UT Health Austin/University of Texas At Austin ("UT"); and Volunteer Healthcare Clinic of the request and their right to submit arguments to this office. *See* Gov't Code §§ 552.304, .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 received

comments from CAA, CCC, CPA, CommUnityCare, LSCC, and UT. We have considered the submitted arguments and reviewed the submitted information.

Initially, you inform us portions of the submitted information are not responsive to the instant request because they do not consist of the current financial qualification standards and criteria used to assess applicant eligibility for the district's sliding scale program and current sliding scale fee schedule costs. The district need not release nonresponsive information in response to this request, and this ruling will not address that information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See id.* § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from any of the remaining third parties. Thus, we have no basis to conclude these third parties have a protected proprietary interest in the responsive information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the district may not withhold any of the responsive information on the basis of any proprietary interest the remaining third parties may have in the information.

We note CAA, CCC, CPA, CommUnityCare, LSCC, and UT assert exceptions to the required public disclosure of information the district has determined is not responsive to the instant request for information. This ruling does not address information beyond what the authority has submitted to us for review. *See Gov't Code* § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). Accordingly, this ruling is limited to the information the district submitted as responsive to the request for information. *See id.*


Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." *Id.* § 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. CAA, CCC, CPA, CommUnityCare, LSCC, and UT state they have competitors. In addition, they state release of the information at issue would provide their competitors with an advantage. After review of the information at issue and consideration of the arguments, we find CAA, CCC, CPA, CommUnityCare, LSCC, and UT have established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude

the district may withhold the responsive information under section 552.104(a) of the Government Code.¹

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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/mo

Ref: ID# 751175

Enc. Submitted documents

c: Requestor
(w/o enclosures)

17 Third Parties
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.