



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 16, 2019

Ms. Elizabeth Hanshaw Winn
Assistant County Attorney
Harris County
2525 Holly Hall, Suite 190
Houston, Texas 77054

OR2019-10232

Dear Ms. Winn:

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# 761286 (CA File No. 19HSP0149).

The Harris County Purchasing Agent (the "county") received a request for the response submitted by Clean Harbors Environmental Services, Inc. ("Clean Harbors"). Although you take no position regarding whether the submitted information is excepted from disclosure, you state release of the submitted information may implicate the proprietary interests of Clean Harbors. Accordingly, you inform us the county notified Clean Harbors of the request and the right to submit arguments to this office. *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 Clean Harbors. We have considered the submitted arguments 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). 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. Clean Harbors states it has competitors. In addition, Clean Harbor

states release of the submitted information, which contains the company's unique business strategies, plans, procedures, and methods, would give its competitors an advantage in the field of environmental and waste disposal services. After review of the information at issue and consideration of the arguments, we find Clean Harbors has established the release of the information at issue would give an advantage to a competitor or bidder. Thus, we conclude the county may withhold the submitted information under section 552.104(a).

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/jxd

Ref: ID# 761286

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)