



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 15, 2019

Ms. Lona Chastain
Office of Legal Counsel
State Bar of Texas
1414 Colorado
Austin, Texas 78701

OR2019-22646

Dear Ms. Chastain:

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# 780869.

The State Bar of Texas (the "state bar") received a request for all licensing agreements between the Family Law section of the state bar and third party vendors during a specified time period. Although the state bar takes no position as to whether the submitted information is excepted under the Act, the state bar states release of the submitted information may implicate the proprietary interests of West Publishing Corporation, a Thomson Reuters company ("Thomson"), and American Legalnet, Inc. ("ALI") Accordingly, the state bar states, and provides documentation showing, it notified the third parties of the request for information and of the 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 Thomson.¹ We have reviewed the submitted arguments and the submitted information.

¹The submitted information reveals Thomson is a successor in interest to ALI. Accordingly, we will also consider Thomson's arguments against release of the information belonging to ALI.

Initially, Thomson argues its submitted information is not responsive to the instant request. We note a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). In this instance, the state bar submitted the information at issue as responsive to the request. Upon review, we find all of the submitted documents are responsive to the request. We will therefore address Thomson's claimed exceptions to disclosure of its information.

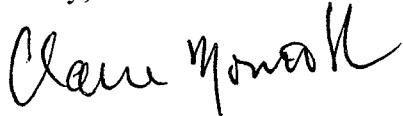
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The "test under section 552.104 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. Thomson states it has competitors. In addition, Thomson states release of the submitted information would give its competitors an unfair advantage with respect to competing against Thomson for the services it offers, and would unfairly target its existing and future business practices, thus resulting in a substantial competitive injury to Thomson. For many years, this office concluded the terms of a contract, and especially the pricing of a winning bidder, are public and generally not excepted from disclosure. Gov't Code § 552.022(a)(3) (contract involving receipt or expenditure of public funds expressly made public); Open Records Decision Nos. 541 at 8 (1990) (public has interest in knowing terms of contract with state agency), 514 (1988) (public has interest in knowing prices charged by government contractors), 494 (1988) (requiring balancing of public interest in disclosure with competitive injury to company); *see generally* Freedom of Information Act Guide & Privacy Act Overview, 219 (2000) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). However, now, pursuant to *Boeing*, section 552.104 is not limited to only ongoing competitive situations, and a third party need only show release of its competitively sensitive information would give an advantage to a competitor even after a contract is executed. *Boeing*, 466 S.W.3d at 841. After review of the information at issue and consideration of the arguments, we find Thomson has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the state bar may withhold the submitted information under section 552.104(a) of the Government Code.²

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.

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/eb

Ref: ID# 780869

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)