



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2019

Mr. Vince Ryan
County Attorney
Harris County
2525 Holly Hall, Suite 190
Houston, Texas 77054

OR2019-29506

Dear Mr. Ryan:

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# 792497 (CA File No. 19HSP063).

The Harris County Hospital District d/b/a Harris Health System ("Harris Health") received a request for a specified financial report and contract. The system states it will release the financial report. Although Harris Health takes no position as to whether the submitted contract is excepted under the Act, Harris Health states release of the submitted information may implicate the proprietary interests of Affiliated Medical Services ("AMS") and Baylor College of Medicine ("Baylor"). Accordingly, Harris Health states, and provides documentation showing, it notified these 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). Further, Harris Health states, and provides documentation showing, it notified the University of Texas Health Science Center at Houston ("UTHSCH") of its right to submit comments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from AMS, Baylor, and UTHSCH. We have considered the submitted arguments and reviewed the submitted information.

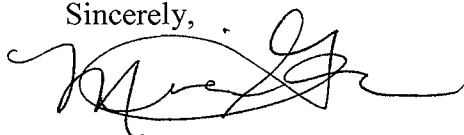
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." *Id.* § 552.104(a). A private

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. AMS states it has competitors and release of the submitted information would cause the company harm. After review of the information at issue and consideration of the arguments, we find AMS has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude Harris Health may withhold the submitted 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Michelle Garza
Attorney
Open Records Division

MRG/jxd

Ref: ID# 792497

Enc. Submitted documents

c: Requestor
(w/o enclosures)

3 Third Parties
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments, including those of Baylor and UTHSCH, against disclosure of the submitted information.