



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 30, 2019

Mr. Jaron L. Hudgins
Counsel for the Walker County Hospital District
Beatty, Navarre, Strama, P.C.
901 South Mopac Expressway, Building 1, Suite 200
Austin, Texas 78746

OR2019-30630

Dear Mr. Hudgins:

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# 794335.

The Walker County Hospital District (the "district"), which you represent, received a request for conflict of interest statement and specified letters sent to the Walker County Hospital Corporation d/b/a Huntsville Memorial Hospital ("HMH"). Although the district takes no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of HMH. Accordingly, you state, and provide documentation showing, you notified this third party 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 received comments from HMH. We have considered the submitted arguments and reviewed the submitted information.

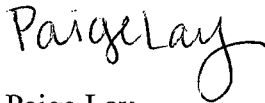
Section 552.104(a) excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). In considering whether a private third party may assert this exception, the supreme court reasoned because section 552.305(a) of the Government Code includes section 552.104 as an example of an exception that involves a third party's property interest, 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. HMH states it has competitors. In addition, HMH states release of its information at issue would give advantage to a competitor or bidder. After review of the information and consideration of the arguments, we find HMH has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the district 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 <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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/rm

Ref: ID# 794335

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)