



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 5, 2019

Ms. Lindsey Bartula
Assistant General Counsel
University of North Texas System
1155 Union Circle #310907
Denton, Texas 76203

OR2019-31153

Dear Ms. Bartula:

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# 795363 (UNT System PIR# 001628).

The University of North Texas System (the "system") received a request for a specified contract. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of HireRight, LLC ("HireRight"). Accordingly, you state, and provide documentation showing, you notified HireRight 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 HireRight. We have considered the submitted arguments and reviewed the submitted information.

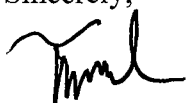
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The "test under section 552.104 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. HireRight states it has competitors. In addition, HireRight states

release of the information at issue would give competitors an advantage. After review of the information at issue and consideration of the arguments, we find HireRight has established the release of the information they have indicated would give advantage to a competitor or bidder. Thus, we conclude the system may withhold the information we have marked under section 552.104(a) of the Government Code.¹ As no further exceptions to disclosure have been raised, the system must release the remaining information.

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/rm

Ref: ID# 795363

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

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