



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 20, 2019

Ms. S. Michelle Williams
Associate General Counsel
University of North Texas System
1155 Union Circle #310907
Denton, Texas 76203-5017

OR2019-32897

Dear Ms. Williams:

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# 797745 (UNTHSC PIR No. 002537).

The University of North Texas Health Science Center (the "center") received a request for specified information related to two specified contracts and study protocols. You state you will make some of the requested information available to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.104, and 552.108 of the Government Code. Additionally, you state release of the submitted information may implicate the interests of the Drug Enforcement Administration (the "DEA"). Accordingly, you state, and provide documentation showing, you notified the DEA 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 § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the DEA. We have considered the submitted arguments and reviewed the submitted representative sample of information.¹

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). 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

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

841. You state the center has specific marketplace interests in the information you marked because the center is a competitor in the marketplace regarding federal research funding and contracts. In addition, you state release of the information at issue would give an advantage to the center's competitors in the competition for funding and contracting in the marketplace. After review of the information at issue and consideration of the arguments, we find the center has established the release of information you marked would give advantage to a competitor or bidder. Thus, we conclude the center may withhold the information you marked under section 552.104(a) of the Government Code.² The center 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,



Emily Buchanan
Assistant Attorney General
Open Records Division

EBO/rm

Ref: ID# 797745

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

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