



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 11, 2019

Mr. Matt Wade
Counsel for the City of Plainview
Underwood Law Firm
P.O. Box 16197
Lubbock, Texas 79490

OR2019-34861

Dear Mr. Wade:

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# 801032.

The City of Plainview (the "city") received a request for information related to a specified request for proposals. The city states it is releasing some of the requested information. Although the city takes no position as to whether the submitted information is excepted under the Act, the city states release of the submitted information may implicate the proprietary interests of Change Healthcare Technology Enabled Services, L.L.C. ("Change"). Accordingly, the city states, and provides documentation showing, it notified Change 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 Change. We have reviewed the submitted arguments and 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. Change states it has competitors. In addition, Change states release of some of its information would cause harm to its competitive interests and would give an advantage to its competitors. After review of the information at issue and consideration of

the arguments, we find Change has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold Change's information at issue, which we noted, under section 552.104(a) of the Government Code.¹ The city 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/be

Ref: ID# 801032

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)

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