



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 12, 2020

Ms. Nelly R. Herrera
Vice Chancellor & General Counsel
Texas State University System
601 Colorado Street
Austin, Texas 78701-2904

OR2020-28454

Dear Ms. Herrera:

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# 852546 (Ref. No. 20055.8).

Texas State University (the "university") received a request for information pertaining to healthcare services. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.104(a) of the Government Code excepts from disclosure information that a governmental body demonstrates, if released, would "harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future." 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." *Boeing Co. v. Paxton*, 466 S.W.3d 831, 841 (Tex. 2015). You assert the university has specific marketplace interests in the information at issue because the university is a healthcare provider and uses the information at issue to negotiate reimbursements with health insurance providers. You argue release of the information at issue would place the university at a competitive disadvantage "due to decreased reimbursements from health insurance [providers]." Based upon your representations and our review, we find you have demonstrated the university has specific marketplace interests and may be considered a "competitor" for purposes of section 552.104. We also find you have demonstrated release of the submitted information

would give advantage to a competitor or bidder. Accordingly, the university 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,

Alexandra C. Burks
Assistant Attorney General
Open Records Division

ACB/rm

Ref: ID# 852546

Enc. Submitted documents

c: Requestor