



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 17, 2015

Mr. Robert W. Patterson
Open Records Coordinator
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

OR2015-19440

Dear Mr. Patterson:

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# 579638.

The Texas Health and Human Services Commission (the "commission") received a request for the responses to the requests for proposals for the Texas Home Visiting Awareness Campaign. The commission states it has released some information. Although the commission takes no position as to whether the submitted information is excepted under the Act, the commission informs us release of this information may implicate the proprietary interests of CMGRP, Inc. d/b/a Weber Shandwick ("Weber"). Accordingly, the commission states, and provides documentation showing, it notified Weber of the request for information and of its right to submit arguments to this office as to why the information at issue 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 Weber. 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*, No. 12-1007, 2015 WL 3854264, at *7 (Tex. June 19, 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 *9. Weber states it has competitors. In addition, Weber states release of the information at issue would give its competitors "insight into the

unique nature of [Weber's] campaigns, plans and services, allowing [Weber's] competitors to copy and duplicate [Weber's] proprietary business practices." After review of the submitted information and consideration of the arguments, we find Weber has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the commission may withhold the submitted information under section 552.104(a) of the Government Code.¹

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 579638

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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¹As our ruling is dispositive, we need not address Weber's remaining arguments against disclosure.