



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 9, 2016

Dr. Daniel Garner
President/CEO
Houston Forensic Science Center
1301 Fannin, Suite 170
Houston, Texas 77002

OR2016-17929

Dear Dr. Garner:

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# 622095.

The Houston Forensic Science Center (the "center") received a request for the proposal submitted by NicheVision Forensics, LLC, ("NicheVision") for a specified request for proposals, as well as the related pricing sheet and any related responses submitted by NicheVision.¹ You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state you notified NicheVision 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

¹You state the center sought and received clarification of the request for information. *See Gov't Code § 552.222(b)* (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

exception in the Act in certain circumstances). We have received comments from NicheVision. 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). 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 (Tex. 2015). You represent the submitted information pertains to a competitive bidding situation. In addition, you state the contract for the specified request for proposals has not yet been negotiated, and release of the information at issue would negatively impact the center. After review of the information at issue and consideration of the arguments, we find the center has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the center may withhold the submitted information under section 552.104(a) of the Government Code.²

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,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

²As our ruling is dispositive, we need not address NicheVision’s argument against disclosure of this information.

Ref: ID# 622095

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)