



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 31, 2011

Mr. W. Montgomery Meitler
Assistant Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

OR2011-04441

Dear Mr. Meitler:

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# 413302 (TEA PIR# 14589).

The Texas Education Agency (the "agency") received a request for the proposals submitted by ApplyWise LLC; CollegiateZone Enterprises, L.P.; ConnectEDU, Inc.; Kuder, Inc.; and Naviance, Inc., the scoring guide used, and each vendor's score for the Online College Preparation and Technical Assistance Grant competition, RFQ Nos. 701-11-022 and 701-11-301. You state the agency will provide the requested scoring and evaluation information to the requestor. Although you state the agency takes no position with respect to the public availability of the submitted bid proposals, you state their release may implicate the proprietary interests of the companies named in the request. Accordingly, you state, and provide documentation showing, the agency notified these companies of the request and of their 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) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information.

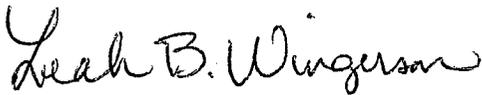
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any of the notified third parties explaining why the submitted bid proposals should not be released. Therefore, we have no basis to conclude any of these parties have protected proprietary interests in their information. *See id.* § 552.110; Open Records Decision

Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Consequently, the agency may not withhold any of the submitted information on the basis of any proprietary interests the notified third parties may have in the information. As no exceptions to disclosure have been claimed, the agency must release the submitted bid proposals.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 413302

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)

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Ms. Bethney Larson
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Ms. Gina Manning
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