



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 31, 2011

Ms. Allyson Collins
General Counsel
Eanes Independent School District
601 Camp Craft Road
Austin, Texas 78746

OR2011-12579

Dear Ms. Collins:

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# 428541 (Request numbers 3174 and 3177).

The Eanes Independent School District (the "district") received requests from two different requestors for the bid evaluations and pricing sheets for all bid proposers regarding the district's recently awarded request for proposals pertaining to depository services for the district. You state the district will provide some of the requested information to the requestors.¹ Although you state the district takes no position with respect to the public availability of the submitted bid evaluation and pricing information, you state its release may implicate the proprietary interests of Bank of America, N.A. ("BOA"); BBVA Compass ("BBVA"); and Frost Bank ("Frost"). Accordingly, you state, and provide documentation showing, the district notified BOA, BBVA, and Frost of the request and of each company's 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

¹You inform us two of the companies that submitted proposals, Wells Fargo and Chase Bank, have consented to the release of their requested information.

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 BOA, BBVA, or Frost explaining why the submitted evaluation and pricing information should not be released. Therefore, we have no basis to conclude BOA, BBVA, and Frost 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 district may not withhold any of the submitted information on the basis of any proprietary interest BOA, BBVA, or Frost may have in the information. As no exceptions to disclosure have been claimed, the district must release the submitted bid evaluation and pricing 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 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# 428541

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

Mr. Norman Witcher
Assistant Vice President
Frost Bank
401 Congress Avenue
Austin, Texas 78701
(w/o enclosures)

Mr. Todd Jordan
Senior Vice President
BBVA Compass
5800 North Mopac Expressway
Austin, Texas 78731
(w/o enclosures)