



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 13, 2013

Mr. Andrew B. Thompson  
Assistant General Counsel  
Corpus Christi Independent School District  
P.O. Box 110  
Corpus Christi, Texas 78403-0110

OR2013-04210

Dear Mr. Thompson:

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# 482241.

The Corpus Christi Independent School District (the "district") received a request for information pertaining to a specified request for proposals. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code.<sup>1</sup> Additionally, you state release of the submitted information may implicate the proprietary interests of Public Consulting Group, Inc.; ESPED.COM, Inc. ("ESPED.COM"); Sungard K-12 Education; SuccessEd; and SEAS Education. Accordingly, you notified these third parties of the request and of their rights to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received

---

<sup>1</sup>Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

comments from an attorney for ESPED.COM. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.104 of the Government Code excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." Gov't Code § 552.104(a). The purpose of section 552.104 is to protect the purchasing interests of a governmental body in competitive bidding situations where the governmental body wishes to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 (1991). Section 552.104 protects information from disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987). Generally, section 552.104 does not except bids from disclosure after bidding is completed and the contract has been executed. *See* Open Records Decision No. 541 (1990).

You state the district is negotiating the purchase of a Special Education Management System with multiple vendors. You state the district, as of the date it received the instant request, continues to consider the competing proposals and has yet to execute a final agreement with any of the potential vendors. You assert disclosing the requested information before a contract has been executed will harm the district's negotiating position by providing pricing, conditions, and other advantageous information to the parties with whom the district is negotiating. Based on your representations and our review, we conclude the district has demonstrated release of the information at issue would harm its interests in a competitive situation. Accordingly, the district may withhold the information at issue under section 552.104 of the Government Code until the contract is executed.<sup>3</sup>

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](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

---

<sup>2</sup>We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

<sup>3</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/tch

Ref: ID# 482241

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Gary E. Zausmer  
Counsel for esped.com, Inc.  
Winstead, P.C.  
401 Congress Avenue, Suite 2100  
Austin, Texas 78701  
(w/o enclosures)

Dr. Jack McLaughlin  
Manager  
Public Consulting Group, Inc.  
148 State Street, 10<sup>th</sup> Floor  
Boston, Massachusetts 02109  
(w/o enclosures)

Mr. Marshall Eubanks  
Senior Vice President of Sales  
SEAS Education  
1793 Highway 201 North  
Mountain Home, Arkansas 72653  
(w/o enclosures)

Mr. Rolando P. Ocañas  
Vice President  
SuccessEd  
2100 McKinney Avenue, Suite 1501  
Dallas, Texas 75201  
(w/o enclosures)

Mr. Bronne J. Bruzgo  
SunGard K-12 Education  
3 West Broad Street  
Bethlehem, Pennsylvania 18018  
(w/o enclosures)