



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 17, 2016

Ms. Maria Miller
Public Information Officer
Dallas County Community College District
1601 South Lamar Street, Suite 208
Dallas, Texas 75215-1816

OR2016-11290

Dear Ms. Miller:

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# 612846.

The Dallas County Community College District (the "district") received a request for information pertaining to a specified request for proposals. The district does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, the district states, and provides documentation showing, it notified Global Financial Services ("Global") of the district's receipt of the request for information and of Global's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 Global objecting to the release of some of the information at issue under sections 552.104 and 552.110 of the Government Code. We have considered the claimed exceptions 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*, 466 S.W.3d 831, 841 (Tex. 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.* Global states it has competitors and argues release of its pricing and cost of services (Tab 8), its financial statements (Tab 7), and its process flow (page 7) in the proposal packet would cause it substantial competitive harm. Upon review, we find global

has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the district may withhold this information under section 552.104(a) of the Government Code.¹

The remaining information contains insurance policy numbers. Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”² Gov’t Code § 552.136(b). This office has determined an insurance policy number is an access device number for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). Thus, the district must withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code.

To conclude, the district may withhold Global’s pricing and cost of services (Tab 8), its financial statements (Tab 7), and its process flow (page 7) of the proposal packet under section 552.104(a) of the Government Code. The district must withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code. The district must release the remaining 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.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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

¹As our ruling is dispositive, we do not address the arguments of Global to withhold this information.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

Ref: ID# 612846

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)