



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 15, 2016

Mr. Rick Faulkner
Counsel for Kilgore College
Coghlan Crowson LLP
P.O. Box 2665
Longview, Texas 75606

OR2016-18387

Dear Mr. Faulkner:

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# 622759 (KC Nos. 2016-54-KC & 2016-55-KC).

Kilgore College (the "college"), which you represent, received two requests from the same requestor for (1) all correspondence between college employees or elected officials and members of a specified family during a specified time; (2) all correspondence between college employees or elected officials pertaining to a specified subject during a specified time; and (3) all notes, memoranda, and reports pertaining to a specified subject. You claim some of the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the first two portions of the requests seeking information pertaining to correspondence of college employees. Further, you do not inform us you have released this information. To the extent any such information existed on the date the college received the request, we assume the college has released it. If the college has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.104(a) of the Government Code exempts 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). The college represents the information at issue pertains to a competitive bidding situation. In addition, the college states release of the information it marked would threaten its competitive advantage in the market at issue and cause harm. After review of the information at issue and consideration of the arguments, we find the college has established the release of the information it marked would give advantage to a competitor or bidder. Thus, we conclude the college may withhold the information it marked under section 552.104(a) of the Government Code. The college 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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/akg

Ref: ID# 622759

Enc. Submitted documents

c: Requestor
(w/o enclosures)