



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 23, 2016

Mr. Ricardo R. Lopez
Mr. Allen M. Keller
Counsel for the North East Independent School District
Schulman, Lopez, Hoffer & Adelstein, L.L.P.
517 Soledad Street
San Antonio, Texas 78205-1508

OR2016-18983

Dear Mr. Lopez and Mr. Keller:

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# 623890.

The North East Independent School District (the "district"), which you represent, received a request for four categories of 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. You also state you notified Esped.com, Inc.; Lumen Touch, LLC; Public Consulting Group, Inc.; and SEAS Education of the request for information and of their rights 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) (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 considered the submitted arguments 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). 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). You represent the submitted information pertains to a competitive bidding situation. In addition, you state the district solicits

proposals for the types of services at issue in the bid at issue on a recurring basis. Further, you state release of the submitted information would “place the [d]istrict at a disadvantage in obtaining truly competitive bids” in the future and “would allow vendors to prepare bids that would undercut those prepared by other vendors in response to future requests for proposal[s.]” After review of the submitted information and consideration of the arguments, we find the district has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the district may withhold the submitted information under section 552.104(a).

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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/dls

Ref: ID# 623890

Enc. Submitted documents

c: Requestor
(w/o enclosures)

4 Third Parties
(w/o enclosures)