



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 27, 2016

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

OR2016-21789

Dear Mr. Lopez:

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# 628349.

The North East Independent School District (the "district"), which you represent, received a request for information pertaining to a specified RFP. The district states it will release some information. The district claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. Further, the district informs us release of this information may implicate the proprietary interests of Bank of America, N.A. ("Bank of America"); Citigroup Global Markets Inc. ("Citigroup"); Jefferies LLC; J.P. Morgan Chase Bank, N.A.; Morgan Stanley & Co. LLC; MUFG Bank of Tokyo Mitsubishi UFJ, Ltd.; and Wells Fargo Bank, N.A.. Accordingly, the district states, and provides documentation showing, it notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 received comments from Bank of America and Citigroup. 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). The district represents the information pertains to a competitive bidding situation. In addition, the district states it has a perpetual need to procure financial services every few years and the release of the information at issue would place the district at a disadvantage in obtaining truly competitive bids for future requests for proposals for substantially the same services as those solicited in the RFP at issue. After review of the information at issue and consideration of the arguments, we find the district has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the governmental body may withhold the submitted information under section 552.104(a) of the Government Code.¹

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/bhf

Ref: ID# 628349

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Parties
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure.