



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 25, 2014

Ms. Melody K. Smith  
Counsel for Dallas County Schools  
Strasburger & Price, L.L.P.  
901 Main Street, Suite 4400  
Dallas, Texas 75202-3794

OR2014-04932

Dear Ms. Smith:

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# 517712 (DCS internal reference # 00309-122013).

Dallas County Schools ("DCS"), which you represent, received a request for twelve categories of information pertaining to school bus stop arm cameras. You state that you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.105 of the Government Code. You also state release of the submitted information may implicate the interests of Force Multiplier Solutions, LLC ("FMS"). Accordingly, you state, and provide documentation demonstrating, DCS notified FMS of the request for information and of its right to submit arguments stating why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from FMS. We have considered the submitted arguments and reviewed the submitted information.

Section 552.104 of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. This exception protects a governmental body's interests in connection with competitive bidding and in certain other competitive situations. *See* Open Records Decision No. 593 (1991) (construing statutory predecessor). This office has held that a governmental body may seek protection as a competitor in the marketplace under section 552.104 and avail itself of the "competitive advantage" aspect of this exception if it can satisfy two criteria. *See id.* First,

the governmental body must demonstrate that it has specific marketplace interests. *See id.* at 3. Second, the governmental body must demonstrate a specific threat of actual or potential harm to its interests in a particular competitive situation. *See id.* at 5. Thus, the question of whether the release of particular information will harm a governmental body's legitimate interests as a competitor in a marketplace depends on the sufficiency of the governmental body's demonstration of the prospect of specific harm to its marketplace interests in a particular competitive situation. *See id.* at 10. A general allegation of a remote possibility of harm is not sufficient. *See* Open Records Decision No. 514 at 2 (1988).

You assert DCS is a competitor in the marketplace for school bus stop arm management systems. You state DCS is currently in negotiations with FMS for the purchase of its system and hardware currently used in the operation of FMS's automated stop arm management business in the state of Texas. You contend release of the submitted information would result in specific harm to DCS's marketplace interests. You assert that if the information at issue was released, it would provide a competitive advantage to competitors who could then outbid DCS. Based on your representations and our review, we find DCS has demonstrated it has a specific marketplace interest and release of the submitted information would result in specific harm to DCS's marketplace interest. Accordingly, we conclude DCS may withhold the submitted information under section 552.104 of the Government Code.<sup>1</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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/som

---

<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

Ref: ID# 517712

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Robert C. Leonard  
Member  
Force Multiplier Solutions, L.L.C.  
5804 River Oaks Road South  
Harahan, Louisiana 70123  
(w/o enclosures)