



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 17, 2015

Mr. Benjamin Castillo  
Counsel for the Edcouch-Elsa Independent School District  
O'Hanlon, Rodriguez, Betancourt & Demerath  
220 South Jackson Road  
Edinburg, Texas 78539

OR2015-16970

Dear Mr. Castillo:

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# 575713.

The Edcouch-Elsa Independent School District (the "district"), which you represent, received a request for the bid analysis and all depository bids pertaining to a specified request for proposals. You state you have made some information available to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, and 552.110 of the Government Code. You also state release of the submitted information may implicate the interests of BBVA Compass Bank, Lone Star National Bank, and Texas National Bank. Accordingly, you notified these third parties of the request for information and of their rights 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 considered the exceptions you claim 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*, No. 12-1007, 2015 WL 3854264, at \*9 (Tex. June 19, 2015). You represent the submitted information pertains to a competitive bidding situation. In addition, you state the district “solicits bids for the same or similar goods or services on a recurring basis.” You assert disclosure of the submitted information would cause unnecessary fiduciary burdens on the district and provide a competitive advantage to other businesses. 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 district may withhold the submitted information under section 552.104(a) 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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/som

Ref: ID# 575713

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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

BBVA Compass  
c/o Benjamin Castillo  
Counsel for the Edcouch-Elsa  
Independent School District  
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c/o Benjamin Castillo  
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