



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 14, 2016

Mr. Allen M. Keller  
Counsel for Life School  
Schulman, Lopez, Hoffer & Adelstein LLP  
517 Soledad Street  
San Antonio, Texas 78205-1508

OR2016-05839

Dear 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# 601797.

The Life School (the "school"), which you represent, received a request for all proposals submitted in response to a specified request for proposals, the final contract executed in response to the specified request for proposals, and financial operating statements for the food service program of the school's Dallas location during a specified time. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Aramark, Chartwells, and Sodexo. Accordingly, you state, and provide documentation showing, you notified Aramark, Chartwells, and Sodexo of the request for information and of their right 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 received comments from Chartwells and Sodexo. We have reviewed the submitted information and the submitted arguments.

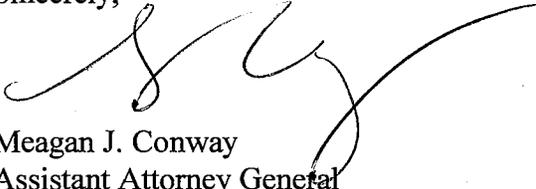
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The

“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. You state the school has a perpetual need to secure contracts for food service programs, and the school solicits bids for food service programs every year. In addition, you state release of the submitted information would allow competitors to accurately estimate and undercut future bids. Based on your representations and our review, we find the school has established release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the school 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,



Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MJC/akg

Ref: ID# 601797

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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

Ms. Karen L. Ehrlich  
Sodexo  
9801 Washington Boulevard  
Gaithersburg, Maryland 20878  
(w/o enclosures)

Mr. David Strauss  
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