



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 1, 2016

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

OR2016-19818

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# 625245.

The North East Independent School District (the "district"), which you represent, received a request for all submittals for RFCSP 84-16 from bidders other than the requestor's company. 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 interests of a specified third party. Accordingly, you notified Rawhide House Moving, LLC ("Rawhide") of the request for information and of its right to submit arguments stating why its 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 submitted arguments and reviewed the submitted information.

The district raises section 552.104(a) of the Government Code for the submitted information, which 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, 841 (Tex. 2015).

You represent the submitted information pertains to a competitive bidding situation. You state the district solicits bids for similar services on a recurring basis. Moreover, you inform us release of the submitted information “would allow vendors to unfairly undercut future bids for such services.” After review of the information at issue and consideration of the arguments, we find the district has established the release of the submitted information would give an 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.

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,



Ian Lancaster
Assistant Attorney General
Open Records Division

IML/akg

Ref: ID# 625245

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)