



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 30, 2016

Mr. Osman Balaman
Legal Coordinator
Harmony Public Schools
9321 West Sam Houston Parkway South
Houston, Texas 77099

OR2016-22087

Dear Mr. Balaman:

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# 628760.

Harmony Public Schools ("Harmony") received a request for the bid tabulation, scoring and evaluation notes, and a copy of the awarded vendor's submitted proposal for bid number 2016-3530. You state Harmony did not have information responsive to a portion of the request at the time it received the instant request for information.¹ You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Harmony 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


¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(Tex. 2015). You represent the submitted information pertains to a competitive bidding situation. You state Harmony 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 Harmony has established the release of the submitted information would give an advantage to a competitor or bidder. Thus, we conclude Harmony 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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/bhf

Ref: ID# 628760

Enc. Submitted documents

c: Requestor
(w/o enclosures)