



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 7, 2016

Ms. Holly A. Sherman
Counsel for Alvin Community College
Rogers, Morris & Grover, LLP
5718 Westheimer Road, Suite 1200
Houston, Texas 77057

OR2016-22651

Dear Ms. Sherman:

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# 629486.

Alvin Community College (the "college"), which you represent, received a request for all lesson plans maintained by the college's police academy. The college claims the submitted information is excepted from disclosure under section 552.104 of the Government Code and protected by copyright. We have considered the college's arguments and reviewed the submitted representative sample of information.¹

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). The college states it has specific marketplace interests in the information at issue because the college is competing with other educational institutions in enrollment of students in its police academy program. In addition, the college

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

states release of its information would allow a competing educational institution to use the information to write its own curriculum without incurring the expense associated with such curriculum development, allowing the competitor to attract potential students of the college to enroll in its own police academy. After review of the information at issue and consideration of the arguments, we find the college has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the college may withhold the submitted information under section 552.104(a) of the Government Code.²

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 629486

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address the college's remaining argument against disclosure.