



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 19, 2016

Ms. Andrea Sheehan
Assistant General Counsel
Texas Association of School Boards
P.O. Box 400
Austin, Texas 78767-0400

OR2016-28020

Dear Ms. Sheehan:

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# 638649.

The Texas Association of School Boards, Inc., custodian of records for the Texas Local Government Purchasing Cooperative d/b/a BuyBoard (the "cooperative"), received a request for the latest top user list. 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 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 cooperative states it has specific marketplace interests in the information at issue because the cooperative competitively awards goods and services to vendors for its members for the purpose of obtaining

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.

economies of scale in the procurement process and, thus, is competing in the purchasing cooperative marketplace. In addition, the cooperative states release of the submitted information would allow competitors to target cooperative members and harm the cooperative's competitive interests in the marketplace. After review of the information at issue and consideration of the arguments, we find the cooperative has established the release of its information would give advantage to a competitor or bidder. Thus, we conclude the cooperative 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/bw

Ref: ID# 638649

Enc. Submitted documents

c: Requestor
(w/o enclosures)