



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 12, 2017

Ms. Kristi Godden
Counsel for Edinburg Consolidated ISD
O'Hanlon, McCollom & Demerath
808 West Avenue
Austin, Texas 78701

OR2017-00909

Dear Ms. Godden:

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# 641448 (ORR# ECISD-16-151).

The Edinburg Consolidated Independent School District (the "district"), which you represent, received a request for information related to all bidders on a specified contract, including contact information and bid amounts. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Candela Organization, L.L.C. ("Candela"); JCON; NM Contracting ("NM"); Peacock General Contractors ("Peacock"); and Rigney Construction & Development ("Rigney"). Accordingly, you state, and provide documentation showing, you notified Candela, JCON, NM, Peacock, and Rigney 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 Peacock and Rigney. We have reviewed the submitted information and the submitted arguments.¹


¹We note the district did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because third-party interests can provide a compelling reason to overcome the presumption of openness, we will consider the submitted arguments against release of the submitted information. *See id.* §§ 552.007, .302, .352.

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Candela, JCON, or NM explaining why the submitted information should not be released. Therefore, we have no basis to conclude Candela, JCON, or NM has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. As noted above, we have received correspondence from Peacock and Rigney. However, although Peacock and Rigney generally raise sections 552.101, 552.104, and 552.110 of the Government Code in their correspondence, neither Peacock nor Rigney has provided any arguments to support the application of these exceptions to their information. Accordingly, the district may not withhold the submitted information on the basis of any proprietary interest Candela, JCON, NM, Peacock, or Rigney may have in the information. As this office has received no arguments against disclosure of the submitted information, the district must release it.

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/sdk

Ref: ID# 641448

Enc. Submitted documents

c: Requestor
(w/o enclosures)

5 Third Parties
(w/o enclosures)