



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 5, 2017

Mr. Ricardo R. Lopez
Counsel for North East Independent School District
Schulman, Lopez, Hoffer, and Adelstein, L.L.P.
517 Soledad Street
San Antonio, Texas 78205-1508

OR2017-07121

Dear Mr. Lopez:

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# 652015.

The North East Independent School District (the "district"), which you represent, received four requests for information pertaining to a specified request for proposals for a student information system. You state the district will release some information. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code.¹ Additionally, you state release of this information may implicate the proprietary interests of Artha Systems, L.L.C.; Education Service Center, Region 20; Focus School Software ("Focus"); Infinite Campus ("Infinite"); PowerSchool Group, L.L.C. ("PowerSchool"); ProLogic Technology Systems ("ProLogic"); Skyward, Inc. ("Skyward"); Sungard K-12; and Tyler Technologies ("Tyler"). Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue 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

¹Although you raise sections 552.101, 552.110, 552.128, 552.137, and 552.147 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

circumstances). We have received comments from Focus, Infinite, PowerSchool, Prologic, Skyward, and Tyler. We have considered the submitted arguments and reviewed the submitted information.

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). You state the submitted information pertains to an ongoing bidding process for recurring services. You further state release of the information at issue “would place the district at a disadvantage in obtaining truly competitive bids for future services.” After review of the information at issue and consideration of the arguments, we find the district has established the release of the information at issue would give 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.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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/bw

Ref: ID# 652015

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

Enc. Submitted documents

c: 4 Requestors
(w/o enclosures)

6 Third Parties
(w/o enclosures)