



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 18, 2017

Ms. Jeanne C. Collins
General Counsel
El Paso Independent School District
P.O. Box 20100
El Paso, Texas 79998-0100

OR2017-08231

Dear Ms. Collins:

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# 654485.

The El Paso Independent School District (the "district") received a request for information regarding a specified request for proposal including: (1) evaluations, rubrics, and analyses used by the committee; (2) all price and technical proposals submitted; and (3) the district's contract with a specified company and associated ordering documents. You state the district is releasing some of the information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Aptiris by Edsby ("Aptiris"); Blackboard, Inc. ("Blackboard"); Brightspace by D2L ("Brightspace"); Canvas by Instructure ("Canvas"); EvoText, Inc. ("EvoText"); itsLearning, Inc. ("itsLearning"); McGraw-Hill Education, Inc. ("McGraw-Hill"); and Schoology, Inc. ("Schoology"). 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 circumstances). We have received comments from Blackboard and Canvas. We have considered the submitted arguments and reviewed the submitted information.

You state the requested information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2017-01798 (2017). In that ruling, we determined (1) the district may withhold the marked information under section 552.104, (2) the district must withhold the marked information under section 552.110

of the Government Code, and (3) district must release the remaining information; however, any information subject to copyright may only be released in accordance with copyright law. The law, facts, or circumstances on which the prior ruling was based have not changed. Thus, the district must continue to rely on Open Records Letter No. 2017-01798 as a previous determination and withhold or release the information at issue in accordance with that ruling.¹ See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/tdw

Ref: ID# 654485

Enc. Submitted documents

c: Requestor
(w/o enclosures)

8 Third Parties
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure.