



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 19, 2017

Mr. Scott W. Thomas  
Counsel for the Arlington Independent School District  
Eichelbaum Wardell Hansen Powell & Mehl, P.C.  
5801 Tennyson Parkway, Suite 360  
Plano, Texas 75024

OR2017-08309

Dear Mr. Thomas:

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# 654102.

The Arlington Independent School District (the "district"), which you represent, received a request for information pertaining to specified contracts. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of specified third parties. Accordingly, you state, and provide documentation showing, you notified EBS Healthcare Staffing Services, Inc. ("EBS") and Accountable Healthcare Staffing, Inc. 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 EBS. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

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

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<sup>1</sup>We 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.

“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 represent the submitted information pertains to competitive bidding situations. In addition, you assert the district solicits bids for similar services on a recurring basis. Moreover, you inform us release of the submitted information would allow vendors to unfairly undercut future bids for such 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.<sup>2</sup>

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](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,



Ian Lancaster  
Assistant Attorney General  
Open Records Division

IML/sb

Ref: ID# 654012

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure.