



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 13, 2017

Mr. Jaime J. Muñoz
Counsel for the La Joya Independent School District
Muñoz Law Firm
P.O. Box 47
San Juan, Texas 78589

OR2017-12997

Dear Mr. Muñoz:

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# 661831.

The La Joya Independent School District (the "district"), which you represent, received a request for 1) all communications between the district and a named entity during a specified time period; and 2) all information provided by the named entity to the district during a specified time period. 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 Enviro-Lite Solutions, LLC ("Enviro-Lite"). Accordingly, you state, and provide documentation showing, you notified Enviro-Lite of the request for information and of its right 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 Enviro-Lite. We have considered the submitted arguments and reviewed the submitted information.

Enviro-Lite asserts the submitted information is protected under section 552.104 of the Government Code. Section 552.104(a) excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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." *Id.* at 841. Enviro-Lite states it has competitors, which include the requestor. In addition, Enviro-Lite states the information at issue, if released, would give the requestor an advantage in submitting a competitive bid to the same request for proposals. After review of the information at issue and consideration of the arguments, we find Enviro-Lite has established the release of the submitted information 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.¹

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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/bw

Ref: ID# 661831

c: Requestor

Third Party

¹As our ruling is dispositive, we need not address Enviro-Lite's remaining argument against disclosure.