



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 12, 2017

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

OR2017-20803

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# 675886.

The Arlington Independent School District (the "district"), which you represent, received a request for packages submitted in response to request for qualifications number 17-72. The district claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, the district states release of the submitted information may implicate the proprietary interests of Corgan Associates, Inc. ("Corgan"); Brown Reynolds Watford Architects; T. Howard and Associates Architects, Inc.; Brinkley Sargent Wiginton Architects; Caco Architecture, L.L.C.; Alliance Architects, Inc.; VLK Architects, Inc. ("VLK"); Glenn Partners, P.L.L.C., f/k/a Studio B Architecture, P.L.L.C. ("Glenn"); Stantec Architecture, Inc.; SDS Architecture; RPGA Design Group; Perkins+Will, Inc.; Pfluger Associates, L.P., d/b/a Pluger; Hahnfeld Associates, Architects and Planners, Inc.; PBK Architects, Inc.; Dimensions Architects; Moody Nolan, Inc.; Harrison Kornberg Architects; McAfee3 Architects, Inc.; Claycomb Associates, Inc.; LBL Architects, Inc.; Huckabee Architects, Inc. ("Huckabee"); and HKS, Inc. Accordingly, the district states, and provides documentation showing, it notified the third parties of the request for information and of the 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

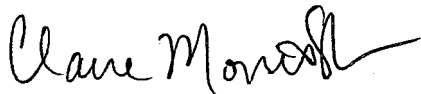
Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Corgan, VLK, Glenn, and Huckabee. We have reviewed the submitted arguments and 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). The district represents the information at issue pertains to a competitive bidding situation. In addition, the district states it will request bids for similar architectural services in the future. Thus, the district argues release of the information would give an unfair advantage to potential bidders by allowing them to undercut future bids. After review of the information at issue and consideration of the arguments, we find the district has established the release of the 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/bw

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

Ref: ID# 675886

Enc. Submitted documents

c: Requestor
(w/o enclosures)

22 Third Parties
(w/o enclosures)