



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 16, 2019

Mr. David L. Stone II
Assistant Chief Appraiser
El Paso Central Appraisal District
5801 Trowbridge Drive
El Paso, Texas 79925-3346

OR2019-01419

Dear Mr. Stone:

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# 745478.

The El Paso Central Appraisal District (the "district") received a request for eight categories of information pertaining to a specified contract between the district and LexisNexis. Although the district takes no position as to whether the submitted information is excepted under the Act, the district indicates release of the submitted information may implicate the proprietary interests of LexisNexis.¹ Accordingly, we understand the district notified LexisNexis of the request for information and of its 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 LexisNexis.² We have considered the submitted arguments and reviewed the submitted representative sample of information. We have also received and considered comments from a representative of the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹Although the district raised sections 552.104, 552.110, and 552.149 of the Government Code in its initial brief, the district has not provided any arguments to support these exceptions. Therefore, we assume the district has withdrawn its claim these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

²The requestor asserts, and we agree, the district did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(e). Nevertheless, because the interest of a third party can provide a compelling reason to overcome the presumption of openness, we will consider applicability of LexisNexis's arguments against disclosure of the submitted information. *See id.* § 552.305.

Initially, we note the district has only submitted documents responsive to some of the requested categories of information. Although the district states it has submitted a representative sample of the requested information, we find the submitted information is not representative of all the types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the types of information the district has submitted for our review. This ruling does not authorize the district to withhold any information that is substantially different from the types of information it submitted to this office. *See id.* § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any such information existed on the date the district received the request, we assume the district has released it. If the district has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Next, we note LexisNexis argues against disclosure of information not submitted to this office for review. This ruling does not address information beyond what the district has submitted to us for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit a copy of specific information requested). Accordingly, this ruling is limited to the information the district submitted as responsive to the request for information.

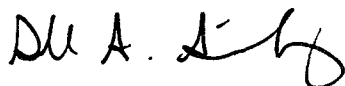
LexisNexis asserts portions of the submitted information are protected under section 552.104 of the Government Code. Section 552.104(a) excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” *Id.* § 552.104(a). A private third party may invoke this exception. *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. LexisNexis states it has competitors. In addition, LexisNexis states the information at issue would be used by its competitors “to the specific and immediate detriment of LexisNexis if released.” After review of the information at issue and consideration of the arguments, we find LexisNexis 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 information we have indicated under section 552.104(a) of the Government Code.³ The district must release the remaining information.

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.

³As our ruling is dispositive, we need not address LexisNexis’s remaining argument against disclosure of this information.

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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/gw

Ref: ID# 745478

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)