



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 29, 2019

Dr. Jon Hill
Superintendent
Dodd City Independent School District
602 North Main Street
Dodd City, Texas 75438

OR2019-02591

Dear Dr. Hill:

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# 748108.

The Dodd City Independent School District (the "district") received a request for six categories of information pertaining to proposals for a specified project. You state the district has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Hammett Excavation, Inc. ("Hammett"). Accordingly, you state, and provide documentation showing, state you notified Hammett 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 an attorney on behalf of Hammett. We have considered the submitted arguments and reviewed the submitted information.

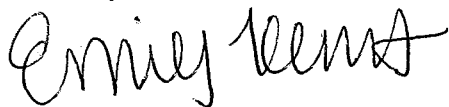
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." *Id.* § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The "test under section 552.104 is whether knowing another bidder's [or competitor's

information] would be an advantage, not whether it would be a decisive advantage.” *Id.* at 841. Hammett states it has competitors. In addition, Hammett states release of its information would give its competitors insight into its proprietary business practices and provide them with a competitive advantage. After review of the information and consideration of the arguments, we find Hammett has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we find 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,



Emily Kunst
Assistant Attorney General
Open Records Division

EK/mo

Ref: ID# 748108

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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