



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 5, 2019

Ms. Maria Miller
Public Information Officer
Dallas County
1601 South Lamar Street, Suite 208
Dallas, Texas 75215-1816

OR2019-06074

Dear Ms. Miller:

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# 753576.

The Dallas County Community College District (the "district") received a request for the name of the awarded vendor and the awarded vendor's proposal pertaining to a specified request for proposals. You state the district has released some information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Southwest Media Group ("SMG"). Accordingly, you state, and provide documentation showing, the district notified SMG 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 SMG. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note SMG seeks to withhold certain information not submitted to this office by the district. By statute, this office may only rule on the public availability of information submitted by the governmental body requesting the ruling. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Because the portion of the information SMG

seeks to withhold was not submitted by the district, this ruling does not address such information and is limited to the information submitted as responsive by the district.

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). In considering whether a private third party may assert this exception, the supreme court reasoned because section 552.305(a) of the Government Code includes section 552.104 as an example of an exception that involves a third party’s property interest, 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. SMG states it has competitors. In addition, SMG states the release of the submitted information would give its competitors an advantage by revealing its business strategies and methodologies in responding to requests for proposals. SMG further states release of the information would compromise its ability to effectively compete for business in the public and private sectors. After review of the information at issue and consideration of the arguments, we find SMG 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.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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/mo

¹As our ruling is dispositive, we need not address SMG’s remaining argument against disclosure of the submitted information.

Ref: ID# 753576

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)