



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 12, 2019

Ms. Kristi Godden
Counsel for the Edinburg Consolidated Independent School District
O'hanlon, Demarth & Castillo
808 West Avenue
Austin, Texas 78701-2208

OR2019-06776

Dear Ms. Godden:

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# 761566 (ID# E000829-020519).

The Edinburg Independent School District (the "district"), which you represent, received a request for award or bid tabulation information pertaining to three bid numbers 18-121, 18-125, and 19-15. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exceptions you claim and reviewed the representative sample of submitted information.

Initially, we note the information pertaining to bid number 18-121 was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2018-25971 (2018). In that ruling, we determined the district may withhold the submitted information under section 552.104(a) of the Government Code. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the district may continue to rely on Open Records Letter No. 2018-25971 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). However, we will address the district's arguments against disclosure for information not previously ruled upon.

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 states the information at issue relates to bids for services and goods it seeks on a recurring basis. The district states release of the information at issue would give an advantage to bidders in 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 at issue would give advantage to a competitor or bidder. Thus, we conclude the district may withhold the remaining information under section 552.104(a) of the Government Code.

In summary, the district may continue to rely on Open Records Letter No. 2018-25971 as a previous determination and withhold the identical information in accordance with that ruling. The district may withhold the remaining information under section 552.104 of the Government Code.

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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JH/jxd

Ref: ID# 761566

Enc. Submitted documents

c: Requestor
(w/o enclosures)