



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 5, 2019

Ms. Courtney R. Crosby  
Public Information Assistant Coordinator  
Dallas Independent School District  
9400 North Central Expressway, Room 1675  
Dallas, Texas 75231

OR2019-14915

Dear Ms. Crosby:

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# 769219 (File No. R018068-030819).

The Dallas Independent School District (the "district") received a request for the tabulation, scoring summary, and awarded vendors' submissions for a specified request for proposals. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Agile Mind Educational Holdings, Inc., Apex Learning ("Apex"), Big Ideas, Carnegie Learning, Inc., Comprehend, DreamBox, Ed Tech Team, Edgenuity, Inc. ("Edgenuity"), Education Galaxy, Formative Loop, Houghton Mifflin, Imagination Station d/b/a Istation, Imagine Learning ("Imagine"), IXL Learning, Inc. ("IXL"), Math Space, McGraw Hill Education, Mind Research Institute, Pearson, PV Waggle, LLC, Reasoning Mind, Inc., Renaissance Learning, and Schmoop University. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 Apex, Edgenuity, Imagine, and IXL. 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." 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). You represent the information pertains to a competitive bidding situation. In addition, you state the information could be used by competitors to undercut future bids, giving future bidders a competitive advantage over others and diminishing the district's ability to procure the highest quality goods and services and to negotiate the most competitive contracts. 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 submitted information under section 552.104(a) of the Government Code.<sup>1</sup>

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](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,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KSM/gw

Ref: ID# 769219

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Third Parties  
(w/o enclosures)

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