



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 25, 2019

Ms. Amy Benya
Assistant General Counsel
Aldine Independent School District
2520 W.W. Thorne Boulevard
Houston, Texas 77073

OR2019-26901

Dear Ms. Benya:

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# 787738.

The Aldine Independent School District (the "district") received a request for the bid submitted by Pinnacle Petroleum, Inc. ("Pinnacle") in response to a specified request for proposals. The district does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, the district states, and provides documentation showing, it notified Pinnacle of the district's receipt of the request for information and of Pinnacle's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 Pinnacle objecting to the release of some of the information at issue. 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). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831, 841 (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.* Pinnacle states it has competitors and argues release of the information at issue would cause it substantial competitive harm. Upon review, we find Pinnacle has established the release of the information at issue, which we have marked, would give advantage to a competitor or bidder. Thus, we conclude the district may withhold the information we have marked under section 552.104(a) of the Government Code.¹

¹ As our ruling is dispositive, we do not address the other arguments to withhold this information.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”²

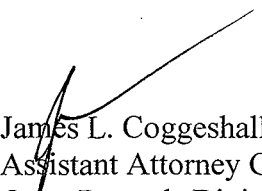
Gov’t Code § 552.136(b). This office has determined an insurance policy number is an access device number for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). Thus, the district must withhold the submitted insurance policy numbers under section 552.136 of the Government Code.

In summary, the district may withhold the information we have marked under section 552.104(a) of the Government Code. The district must withhold the submitted insurance policy numbers under section 552.136 of the Government Code. 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.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/gw

Ref: ID# 787738

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)

² **Error! Main Document Only.** The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).