



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 30, 2019

Mr. Robb D. Decker  
Counsel for Northside Independent School District  
Walsh Gallegos Teviño & Kyle, P.C.  
P.O. Box 460606  
San Antonio, Texas 78246

OR2019-30645

Dear Mr. Decker:

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# 794139.

The Northside Independent School District (the "district"), which you represent, received a request for information pertaining to a specified request for proposals. You claim the submitted information is exempted from disclosure under section 552.104 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Audience Research & Development L.L.C. ("Audience"); Gibson; and Panorama Education ("Panorama"). Accordingly, you state, and provide documentation showing, you notified the interested 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 Audience, Gibson, and Panorama. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note some of the submitted information, which we marked, is not responsive to the instant request because it was created after the instant request was received. This ruling does not address the public availability of any information that is not responsive to the request and the district is not required to release such information in response to this request

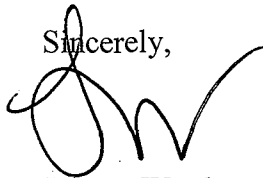
Section 552.104(a) of the Government Code exempts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's

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 submitted information pertains to a competitive bidding situation. In addition, you state the release of this information prior to the execution of a contract “would undermine the [d]istrict’s bargaining position to obtain the best terms from other providers should current contract negotiations prove unsuccessful.” After reviewing the submitted information and considering your arguments, we find the district has established the release of the information at issue would give advantage to a competitor or bidder. Accordingly, we conclude the district may withhold submitted responsive 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 <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,



Jahna Ward  
Assistant Attorney General  
Open Records Division

JW/be

Ref: ID# 794139

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

3 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.