



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 21, 2019

Ms. April R. Philley
Counsel for Castleberry Independent School District
Eichelbaum, Wardell, Hansen, Powell & Munoz, P.C.
5801 Tennyson Parkway, Suite 360
Plano, Texas 75024

OR2019-32977

Dear Ms. Philley:

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# 805523.

The Castleberry Independent School District (the "district"), which you represent, received a request for information pertaining to the proposal and scoring sheet for request for proposal a specified during a defined time period.¹ You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of several third parties. Accordingly, you state you notified each third party 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 one of the third parties.² We have considered the submitted argument 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 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 state the district "solicits bids for the goods and services at

¹You state the district sent the requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code, and the requestor accepted the cost estimate. *See* Gov't Code § 552.2615.

²We have received comments from Compass Group USA, Inc.

issue on a recurring basis.” You also state release of the submitted information “would give advantage to a competitor or bidder and prevent the [d]istrict from obtaining the best possible contract.” After review of the submitted information and consideration of the arguments, we find you have established the release of the submitted information 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.

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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JHI/rm

Ref: ID# 805523

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)