



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 23, 2019

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

OR2019-36409

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# 803016 (ORR# R018804-090319).

The Dallas Independent School District (the "district") received a request for information pertaining to a specified district program.¹ You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of the submitted information may implicate the interests of certain third parties.² Accordingly, you notified these third parties of the

¹ We note the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

² The district notified the following third parties: Academic Learning Company, Action Potential Learning, LLC; Ahead of the Class Educational Services, Inc.; Wright One Training; Blackridge Consulting, Inc.; Dallas Comedy House; Dorsey & Company; DrJatun.com; EdTech Team; Educational Concepts, LLC ("Educational Concepts"); EduProject ELL, LLC; Elevate USA, Inc.; Engage Learning Inc. d/b/a engage2learn ("engage2learn"); Follett School Solutions; G & D Associates; Global Knowledge Training, LLC; Government Procurement Services; Hawkings Development Group; Hoonuit, LLC; Howbrite Solutions, Inc.; Interactive Quality, LLC; Istation; Earthlink; Just Say Yes; Kamico Instructional Media, Inc.; Lakeshore Learning Materials ("Lakeshore"); Lupe Lloyd & Associates, Inc.; Mediators & Arbitrators of America ("MAA"); Metrics2results, Inc.; Momentous Institute; National Inventors Hall of Fame; Parker and Jamison, LLC; Reasoning Mind, Inc.; Rischer Consulting, LLC; RRG Consulting, Inc.; Safety Sat Training,

request for information and of their rights to submit arguments stating why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from Educational Concepts, engage2learn, Lakeshore, and MAA. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note engage2learn and MAA argue against disclosure of information not submitted to this office for review. This ruling does not address information beyond what the district has submitted to us for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit a copy of specific information requested). Accordingly, this ruling is limited to the information the district submitted as responsive to the request for 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). The district represents the information at issue pertains to a contract regarding professional development and consulting services. Further, you state release of the submitted information could unfairly give future bidders a competitive advantage over others and diminish the district's ability to negotiate the most competitive contracts. In addition, the district states release of the submitted information would cause harm 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 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.³

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

LLC; Scholastic, Inc.; Stenhouse Publishers; Stronge and Associates Educational Consulting, LLC; Take the Limits Off, LLC; Teachstone Training, LLC; The Education Partners; The Gaston Group, LLC; Trainer Angie.com; Validate Me! LLC; and Southern Methodist University.

³ As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

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,

A handwritten signature in black ink, appearing to read "D. Michelle Case", with a long horizontal flourish extending to the right.

D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/mo

Ref: ID# 803016

Enc. Submitted documents

c: Requestor
(w/o enclosures)

4 Third Parties
(w/o enclosures)