



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 5, 2020

Mr. Allen M. Keller
Counsel for IDEA Public Schools
Schulman, Lopez, Hoffer & Adelstein, LLP
845 Proton Road
San Antonio, Texas 78258

OR2020-03358

Dear Mr. Keller:

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# 810434.

IDEA Public Schools ("IDEA"), which you represent, received three requests from different requestors for the proposals submitted in response to a specified request for proposals for student test preparation services. 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 proprietary interests of Cambridge Education Services, Inc.; Kaplan, Inc.; SureScore, Inc. ("SureScore"); and Sylvan Learning. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of the 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 SureScore. We have considered submitted arguments and reviewed the submitted information. We have also received and considered comments from the first requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

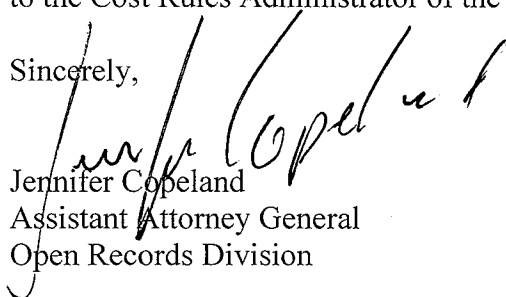
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." *Id.* § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v.*

Paxton, 466 S.W.3d 831 (Tex. 2015). You assert the submitted information pertains to competitive bidding situations for which IDEA solicits bids for student test preparation services on a recurring basis. In addition, you state release of the information at issue would allow vendors to unfairly undercut future bids. After review of the information at issue and consideration of the arguments, we find you have established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude IDEA may withhold the submitted information under section 552.104(a) of the Government Code.¹

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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/mo

Ref: ID# 810434

Enc. Submitted documents

c: Requestor
(w/o enclosures)

4 Third Parties
(w/o enclosures)

¹ As our ruling is dispositive, we need not address SureScore's arguments against disclosure.