



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 20, 2020

Ms. Sandy Slade
Public Information Officer
Leander Independent School District
P.O. Box 218
Leander, Texas 78646

OR2020-05451

Dear Ms. Slade:

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# 811964 (Request No. 2789).

The Leander Independent School District (the "district") received a request for information related to a specified purchase order.¹ You claim portions of the submitted information are excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of the information at issue may implicate the proprietary interests of Kaltura, Inc. ("Kaltura"). Accordingly, you state, and provide documentation demonstrating, you notified Kaltura of the request for information and of its right to submit arguments to this office. *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 considered the exception you claim and reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Kaltura explaining why the information at issue should not be released. Thus, we have no basis to conclude Kaltura has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661

¹ The district states it 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 that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Therefore, the district may not withhold the submitted information on the basis of any proprietary interest Kaltura may have in the 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 relates to cloud-based computing services. In addition, the district states release of the information at issue would harm the district in future negotiations for this type of service by allowing competitors to use this information to their advantage. After review of the information at issue and consideration of the arguments, we find the district has established the release of the information you marked would give advantage to a competitor or bidder. Thus, we conclude the district may withhold the information you marked under section 552.104(a) of the Government Code. As no further exceptions to disclosure have been raised, 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,



Sean McCormick
Attorney
Open Records Division

SMC/gw

Ref: ID# 811964

c: Requestor

c: 1 Third Party