



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 29, 2020

Ms. Ingrid Gunter
Paralegal
Lewisville Independent School District
P.O. Box 217
Lewisville, Texas 75067

OR2020-18980

Dear Ms. Gunter:

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# 837710 (Ref. No. 1920-198).

The Lewisville Independent School District (the "district") received a request for information related to a specified request for proposals. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of 1st Choice Restaurant Equipment & Supply, LLC; Ace Mart Restaurant Supply; Advanced Commercial Equipment Service Corporation; CandelTech, Inc.; Gaskets Rock International; Hagar Restaurant Service ("Hagar"); Heritage Food Service Group, Inc.; Hobart d/b/a ITW Food Equipment Group, LLC; ISI Commercial Refrigeration d/b/a Strategic Equipment, LLC; Sheperd Food Equipment d/b/a Crazy Cousins, Inc.; TDIndustries, Inc.; and Woodward Builders Supply. Accordingly, you state, and provide documentation showing, you notified these interested third parties of the request for information and of their 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 Hagar. We have reviewed the submitted information and considered the submitted arguments.

Initially, we note Hagar argues 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.

Next, we note 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) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any remaining third party explaining why the submitted information should not be released. Therefore, we have no basis to conclude any remaining third party has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the district may not withhold the submitted information on the basis of any proprietary interest any remaining third party may have in the information.

Section 552.1101 of the Government Code provides, in relevant part:

(a) . . . [I]nformation submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from the requirements of Section 552.021 if the vendor, contractor, potential vendor, or potential contractor that the information relates to demonstrates based on specific factual evidence that disclosure of the information would:

(1) reveal an individual approach to:

(A) work;

(B) organizational structure;

(C) staffing;

(D) internal operations;

(E) processes; or

(F) discounts, pricing methodology, pricing per kilowatt hour, cost data, or other pricing information that will be used in future solicitation or bid documents; and

(2) give advantage to a competitor.

Id. § 552.1101(a). Hagar asserts disclosure of some of its information would reveal an individual approach to discounts or pricing methodology and give advantage to a competitor. Upon review, we find Hagar has demonstrated the applicability of section 552.1101(a) to the information at issue. Accordingly, the district must withhold the

information we marked under section 552.1101 of the Government Code. 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
Assistant Attorney General
Open Records Division

SMC/jm

Ref: ID# 837710

Enc. Submitted documents

c: Requestor
(w/o enclosures)

11 Third Parties
(w/o enclosures)