



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 21, 2022

Mr. Ronn Garcia
Attorney for the Lubbock Independent School District
Underwood Law Firm
P.O. Box 16197
Lubbock, Texas 79490

OR2022-08017

Dear Mr. Garcia:

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# 936751.

The Lubbock Independent School District (the "district"), which you represent, received a request for a specified bid tabulation. 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 Asel Art Supply; Cascade School Supplies; Contract Paper Group, Inc.; DGS Educational Products; Fitness Finders, Inc.; Lakeshore Learning Materials ("Lakeshore"); Nasco Education, LLC; National Art & School Supplies, Inc.; Pyramid School Products; Quill, LLC; and Texas Art Supply Company. 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 Lakeshore. We have considered the submitted arguments 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 to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have only received comments from Lakeshore. Thus, we have no basis to conclude any of the remaining interested third parties 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 any of the submitted information on the basis of any proprietary interest any of the remaining interested third parties may have in the information.

Section 552.110(c) of the Government Code excepts from disclosure “commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” *Id.* § 552.110(c). Lakeshore argues some of its information consists of commercial or financial information subject to section 552.110(c). Upon review, however, we find Lakeshore has failed to provide specific factual evidence demonstrating the information at issue constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, the district may not withhold any of the information at issue under section 552.110(c) of the Government Code.

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). Lakeshore asserts disclosure of some of its information would reveal an individual approach to its pricing and give advantage to a competitor. Upon review, however, we find Lakeshore has failed to provide the specific factual evidence necessary to withhold any of the information at issue under section 552.1101(a), and the district may not withhold it on that basis. The district must release the submitted 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,

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/jm

Ref: ID# 936751

Enc. Submitted documents

c: Requestor
(w/o enclosures)

11 Third Parties
(w/o enclosures)