



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 15, 2022

Mr. Jeff Goldhorn  
Executive Director  
Region 20 Education Service Center  
1314 Hines Avenue  
San Antonio, Texas 78208-1899

OR2022-28263

Dear Mr. Goldhorn:

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# 969693.

The Region 20 Education Service Center ("ESC 20") received two requests for a specified bid tabulation. Although ESC 20 takes no position as to whether the submitted information is excepted under the Act, ESC 20 states release of the submitted information may implicate the proprietary interests of Labatt Food Service, LLC ("Labatt"). Accordingly, ESC 20 states, and provides documentation showing, it notified Labatt 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 Labatt. We have considered the submitted arguments and reviewed the submitted information.

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

- (a) Except as provided by Section 552.0222, information 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.

(b) The exception to disclosure provided by Subsection (a) does not apply to:

(1) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body; or

(2) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

Gov't Code § 552.1101(a), (b). Additionally, we note section 552.0222(b) lists certain types of information to which section 552.1101(a) does not apply. *See id.* § 552.0222(b). Labatt asserts disclosure of some of its information would reveal an individual approach to pricing information that will be used in future bids and give advantage to a competitor. Upon review, we find Labatt has demonstrated the applicability of section 552.1101(a) to some of the information at issue. Accordingly, ESC 20 must withhold the information we indicated under section 552.1101(a). However, we find some of the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.1101(a). *See id.* § 552.0222(b) (listing certain types of information not excepted under section 552.1101). Additionally, we find Labatt has failed to provide specific factual evidence demonstrating any portion of the rest of the remaining information at issue is subject to section 552.1101(a). Therefore, ESC 20 may not withhold any of the remaining information at issue under section 552.1101(a). ESC 20 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 Nottingham  
Assistant Attorney General  
Open Records Division

SN/jxd

Ref: ID# 969693

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)