



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 19, 2016

Ms. Frances R. Broussard  
Counsel for San Jacinto College  
Thompson & Horton, L.L.P.  
3200 Southwest Freeway, Suite 2000  
Houston, Texas 77027

OR2016-23489

Dear Ms. Broussard:

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# 631722.

San Jacinto College (the "college") received a request for the bid tabulations for the current and previous contracts for temporary personnel services. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally you state release of the submitted information may implicate the proprietary interests of Meador Staffing ("Meador"). Accordingly, you state, and provide documentation showing, you notified Meador of the request for information and of its 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 reviewed the submitted information and the submitted arguments.

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, 841 (Tex. 2015). You represent the submitted information pertains to a competitive bidding situation. You state the college solicits bids

for similar services on a recurring basis. Moreover, you inform us release of the submitted information “will undercut the [c]ollege’s negotiating position with respect to future procurements for such contracts.” You also state release of the information “will allow third-party competitors to tailor their proposals to specific evaluation criteria, necessarily resulting in an advantage to a future bidder who accesses the information and undermining the quality of proposals and competition amongst competitors.” After review of the information at issue and consideration of the arguments, we find the college has established the release of the submitted information would give an advantage to a competitor or bidder. Thus, we conclude the college may withhold the submitted information under section 552.104(a) of the Government Code.

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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 631722

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)