



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

September 15, 2017

Mr. Ryan L. Morris  
Assistant General Counsel  
Lone Star College  
5000 Research Forest Drive  
The Woodlands, Texas 77381-4356

OR2017-21236

Dear Mr. Morris:

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# 675918 (LSC File No. LMC0003253).

Lone Star College (the "college") received two requests for information pertaining to a specified request for proposals. You claim portions of the submitted information are excepted from disclosure under section 552.104 of the Government Code. Additionally, you state the release of the submitted information may implicate the proprietary interests of third parties. Accordingly, the college provides documentation showing it notified the third parties of the requests for information and of their rights 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 the third parties. We have considered the submitted arguments and reviewed the submitted 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, 841 (Tex. 2015). You state release of the information at issue would provide an advantage to competitors bidding for current or future contract awards with the college. You also state releasing the information you marked would harm

the college's and taxpayers' interests because it would allow competitors to estimate future bids, which would prevent the college from receiving best value. You further argue release of the information at issue would undermine the competitive bidding process. Based on your representations and our review, we find the college has established the release of the information you marked would give advantage to a competitor or bidder. Thus, we conclude the college may withhold the information you marked under section 552.104(a) of the Government Code.

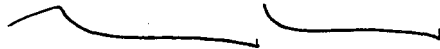
The third parties also seek to withhold some of their information under section 552.104(a) of the Government Code. A private third party may invoke this exception. *Id.* at 831. The third parties state they have competitors and release of their information at issue would give their competitors an advantage. After review of the information at issue and consideration of the arguments, we conclude the college may withhold the information we marked under section 552.104(a).

In summary, the college may withhold the information you marked and we marked under section 552.104(a) of the Government Code. The remaining information must be released.

Finally, you request this office issue a previous determination that would permit the college to withhold from disclosure pricing information of bidders who provided bids in response to solicitations for services from the college, but did not receive contractual awards based on those bids, under section 552.104 of the Government Code without the need of requesting a ruling from this office. We decline to issue such a previous determination at this time. Accordingly, 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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/eb

Ref: ID# 675918

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)