



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 16, 2004

Ms. Jennifer E. Bloom  
Assistant General Counsel  
The University of Houston System  
4800 Calhoun, Room 311  
Houston, Texas 77204

OR2004-6913

Dear Ms. Bloom:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 207143.

The University of Houston (the "university") received a request for the bid tabulation of a request for proposal to provide temporary staffing services. The university asserts the information is excepted from disclosure based on section 552.104 of the Government Code.

Section 552.104 states that information is excepted from required public disclosure if release of the information would give advantage to a competitor or bidder. The purpose of this exception is to protect the interests of a governmental body usually in competitive bidding situations. *See* Open Records Decision No. 592 (1991). This exception protects information from public disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987). Generally, section 552.104 does not except bids from public disclosure after bidding is completed and the contract has been executed. *See* Open Records Decision No. 541 (1990).

The university states that it is currently negotiating with the successful bidder, but the contract has not been executed. The university further explains that if negotiations break down, release of the information would jeopardize its bargaining position if it were to enter into negotiations with another bidder. We therefore conclude that the information is excepted from disclosure based on section 552.104 until such time as the contract is

executed. In light of our conclusion under section 552.104, we need not address the third parties' arguments.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this

ruling by filing-suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 207143

Enc. Submitted documents

c: Ms. Caroline Garza  
Regional Sales Manager  
Superior Staffing Services  
4747 Bellaire Boulevard, Suite 150  
Bellaire, Texas 77401  
(w/o enclosures)

Ms. Lisa Quattrini  
Director of Business Development  
OnStaff  
100 Corporate Pointe, Suite 320  
Culver City, California 90230  
(w/o enclosures)

Ms. Amy A. Anger  
Kelly Services  
999 West Big Beaver Road  
Troy, Michigan 48084-4782  
(w/o enclosures)

Ms. Mynelka White  
Beatty's Services, Inc.  
127 West 127<sup>th</sup> Street, Suite 308  
New York, New York 70027  
(w/o enclosures)

Ms. Amy Stephenson  
Branch Manager  
Adecco North America, LLC  
5433 Westheimer, Suite 1115  
Houston, Texas 77056  
(w/o enclosures)

Ms. Valerie Freeman  
Chief Executive Officer  
Imprimus Group  
4835 LBJ Freeway, Suite 1000  
Dallas, Texas 75244  
(w/o enclosures)

Ms. Debra Canady  
Recanna Solutions  
P.O. Box 24811  
Houston, Texas 77229  
(w/o enclosures)

Mr. Kenneth W. Landau  
Director of Government Services  
AppleOne Human Resources Consulting  
990 Knox Street  
Torrence, California 90502  
(w/o enclosures)

Mr. Brian Fontana  
Chief Financial Officer  
Talent Tree, Inc.  
9703 Richmond Avenue  
Houston, Texas 77042  
(w/o enclosures)

Ms. Rosemarie Levit  
Administrative Division Manager  
Asgard Resources  
8707 Katy Freeway, Suite 300  
Houston, Texas 77024  
(w/o enclosures)

Ms. Dianna Benavides  
Area Vice President  
Staffing Solutions  
711 West Bay Area Boulevard, Suite 130  
Webster, Texas 77598  
(w/o enclosures)

Mr. Michael R. Epstein  
CFO and Secretary  
Pomerantz Staffing  
1375 Plainfield Avenue  
Watchung, New Jersey 07069-0798  
(w/o enclosures)