



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 28, 2015

Ms. Audra Gonzalez Welter
Attorney & Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701

OR2015-15346

Dear Ms. Welter:

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# 573747.

The University of Texas Southwestern Medical Center (the "university") received a request for information pertaining to vendors who have contracts with the university as a recruiting search firm, retained search firm, contingency search firm, or supplemental temporary workforce firm.¹ You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of some of the submitted information may implicate the interests of third parties. Accordingly, you notified the third parties of the request for information and of their rights to submit arguments stating why

¹We note the university sought and received clarification of the request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). *See also* *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-business-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

their information should not be released.² See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from Steve Harvey & Associates, Inc.; OfficeWorksRx; Fidelis Companies, L.L.C.; and Management Recruiters of LBJ Park. We have considered the submitted arguments and reviewed the information you have submitted.

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*, No. 12-1007, 2015 WL 3854264, at *9 (Tex. June 19, 2015). You represent the information pertains to a competitive bidding situation. In addition, you state a request for proposals for recruiting services was being solicited when the university received the present request for information. You explain releasing the current contracts and proposals at issue, which are for the same services, could impair the university's ability to negotiate contracts for the pending request for proposals. After review of the information at issue and consideration of the arguments, we find the university has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the university may withhold the submitted information under section 552.104(a).³

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, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²The notified third parties are: Criticare; Cross Country Staffing; Maxim Physician Resources, L.L.C.; Maxim Staffing Solutions; H.I.M. Recruiters, L.L.C.; HIMS Consulting Group; Insight Global, L.L.C.; Accounting Principals; Blue Horseshoe Network, Inc.; Divurgent, L.L.C.; International Placement Consulting; BravoTECH Technical Resources, Inc.; Aerotek Scientific, L.L.C.; ALKU Technologies, L.L.C.; Fidelis Companies, L.L.C.; Coors Healthcare Solutions; Protiviti, Inc.; Palm Careers, L.L.C.; Judge Technical Staffing, Inc.; Management Recruiters of LBJ Park; Staff Care, Inc.; Sierra-Cedar, Inc.; Robert Half International, Inc.; Steve Harvey & Associates, Inc.; Thorn Network, Inc.; Odell & Associates, Inc.; Paladin Consulting, Inc.; Magee Resource Group; OfficeWorksRx; Lucas Group; Korn/Ferry International.

³As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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/dls

Ref: ID# 573747

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Peter M. Goldman
CEO
Criticare
101 East Park Blvd., Suite 759
Plano, Texas 75074
(w/o enclosures)

Mr. Mark Sacco
Director of Business Development
Cross Country Staffing
6551 Park of Commerce Boulevard
Boca Raton, Florida 33487
(w/o enclosures)

Mr. Dustin Darakhshan
Recruitment Manager
Maxim Physician Resources
5001 LBJ Freeway, Suite 900
Dallas, Texas 75244
(w/o enclosures)

Mr. Brian Blohm
Regional Controller
Maxim Staffing Solutions
5001 LBJ Freeway, Suite 900
Dallas, Texas 75244
(w/o enclosures)

Mr. Perry E. Ellie
President
H.I.M. Recruiters, L.L.C.
9242 123rd Avenue
Largo, Florida 33773
(w/o enclosures)

Mr. Brian J. Parnell
Vice President, Client Services
HIMS Consulting Group
3527 Mount Diablo Blvd., Suite 319
Lafayette, California 94549
(w/o enclosures)

Insight Global, L.L.C.
Attn: Legal
Suite 250
4170 Ashford Dunwoody Road
Atlanta, Georgia 30319
(w/o enclosures)

Mr. James P. Clark
President
Blue Horseshoe Network, Inc.
11901 Hunters Creek Court
Plymouth, Michigan 48170
(w/o enclosures)

Mr. Bryan Lowry
Int'l Placement Consulting
4211 Talladega Drive
Sparks, Nevada 89436
(w/o enclosures)

Aerotek Scientific, L.L.C.
Attn: Assistant Controller -
Mid-Atlantic Region
7301 Parkway Drive
Hanover, Maryland 21076
(w/o enclosures)

Ms. Karen Richards
President and CEO
Fidelis Companies
Suite 250
2800 North Dallas Parkway
Plano, Texas 75093
(w/o enclosures)

Ms. Susan Haseley
Managing Director
Protiviti, Inc.
13727 Noel Road, Suite 800
Dallas, Texas 75240
(w/o enclosures)

Mr. Steve Sanchez
Account Executive
Accounting Principals
14911 Quorum Drive, Suite 120
Dallas, Texas 75245
(w/o enclosures)

Ms. Mary Sirois
Principal
Divurgent, L.L.C.
4445 Corporation Lane, Suite 228
Virginia Beach, Virginia 23462
(w/o enclosures)

Mr. William Hodges
Business Development Manager
BravoTECH Technical Resources, Inc.
4835 LBJ Freeway, Suite 1000
Dallas, Texas 75244
(w/o enclosures)

Mr. Brett Fistes
Account Manager
ALKU Technologies, L.L.C.
200 Brickstone Square, Suite 503
Andover, Massachusetts 01810
(w/o enclosures)

Ms. Cheryl Coors
CEO
Coors Healthcare Solutions
6000 Fairview Road, Suite 1200
Charlotte, North Carolina 28210
(w/o enclosures)

Mr. John Palmisano
Owner
Palm Careers, L.L.C.
1720 SW 5th Street
Fort Lauderdale, Florida 33312
(w/o enclosures)

Judge Technical Staffing, Inc.
Suite 300
300 Conshokocken State Road
West Conshokocken, PA 19428
(w/o enclosures)

Staff Care, Inc.
Attn: Legal
5001 Statesman Drive
Irving, Texas 75063
(w/o enclosures)

Robert Half International, Inc.
Attn: Legal
Suite 1
5735 West Las Positas Blvd.
Pleasanton, California 94588
(w/o enclosures)

Thorn Network, Inc.
Attn: Legal
105 Decker Court, Suite 425
Irving, Texas 75062
(w/o enclosures)

Paladin Consulting, Inc.
Attn: Legal
3030 LBJ Freeway, Suite 1140
Dallas, Texas 75234
(w/o enclosures)

OfficeWorksRx
c/o Mr. Brian M. Nugent
Holland & Hart, L.L.P.
P.O. Box 8749
Denver, Colorado 80201-8749
(w/o enclosures)

Mr. Ray D. Vlasek
General Manager
Management Recruiters of LBJ Park
400 East Royal Lane, Suite 214
Irving, Texas 75039
(w/o enclosures)

Sierra-Cedar, Inc.
Attn: CFO
1255 Alderman Drive
Alpharetta, Georgia 30005
(w/o enclosures)

Mr. Steve Harvey
President
Steve Harvey & Associates, Inc.
P.O. Box 166
Rocky Hill, Texas 06067
(w/o enclosures)

Ms. Candy Odell
Vice President for Operatons
Odell & Associates, Inc.
660 North Central Expy, Suite 240
Plano, Texas 75074
(w/o enclosures)

Magee Resource Group
Attn: Legal
920 Pierremont Road, Suite 515
Shreveport, Louisiana 71106
(w/o enclosures)

Lucas Group
Attn: Legal
5001 Spring Valley Road, Suite 550 East
Dallas, Texas 75244
(w/o enclosures)

Mr. Victor Arias
Korn/Ferry International
Suite 2600
1900 Avenue of the Stars
Los Angeles, California 90067
(w/o enclosures)