



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 28, 2015

Ms. Frances R. Broussard  
Counsel for the San Jacinto College  
Thompson & Horton LLP  
Phoenix Tower, Suite 2000  
3200 Southwest Freeway  
Houston, Texas 77027

OR2015-18005

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# 577650.

San Jacinto College (the "college"), which you represent, received a request for two specified proposals, with financial statements, compliance audits, and any personally identifiable information redacted. You state the college will redact information pursuant to section 552.136(c) of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state release of this information may implicate the proprietary interests of Immediate Credit Recovery, Inc. and S&S Recovery, Inc. Accordingly, you state, and provide documentation demonstrating, you have notified these third parties of the request for information and of their 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 considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted portions of the requested proposals for our review. To the extent any additional responsive information existed when the present request was

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<sup>1</sup>Section 552.136(c) of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See Gov't Code* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

received, we assume it has been released. If such information has not been released, then the college must release it at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Although you raise section 552.110 of the Government Code for the submitted information, that exception is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address your argument under section 552.110. We further note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from either third party explaining why its information should not be released. Therefore, we have no basis to conclude either third party has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3. Accordingly, the college may not withhold any of the information at issue on the basis of any proprietary interest either third party may have in it. As no further exceptions to disclosure are raised, the college must release the submitted 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 [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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 577650

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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