



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 24, 2017

Ms. Jessica Vu  
Public Information Coordinator  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR2017-01608

Dear Ms. Vu:

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# 642531 (OOG ID# 16-362).

The Office of the Governor (the "governor's office") received a request for a script and recording of a specified production. Although you take no position on the submitted information, you state release of this information may implicate the proprietary interests of NBC Universal ("NBC"). Accordingly, you state you notified NBC of the request for information and of its right to submit arguments to this office as to why the information at issue 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 NBC. We have also received and considered comments submitted by the requestor and an additional third party. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). 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." *Id.* § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). 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.” *Id.* at 841. NBC states it has competitors. In addition, NBC states release of the information at issue would give an advantage to its competitors by allowing them to obtain as-yet unaired programming produced by NBC. After review of the information at issue and consideration of the arguments, we find NBC has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the governor’s office may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</sup>

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/sdk

Ref: ID# 642531

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not consider NBC’s remaining argument against disclosure.