



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 4, 2017

Ms. Claudene Marshall
Assistant General Counsel
Office of General Counsel
Texas A&M University System
301 Tarrow Street, Sixth Floor
College Station, Texas 77840-7896

OR2017-09608

Dear Ms. Marshall:

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# 656049 (R000308-021317).

Texas A&M University (the "university") received a request for any contracts or salary arrangements between the university and two named individuals. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted information pertaining to one of the named individuals. To the extent any responsive information pertaining to the other named individual existed on the date the university received the request, we assume the university has released it. If the university has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .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).

Next, we note you have redacted information from the submitted documents. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code §§ 552.301(a), (e)(1)(D). You do not assert, nor does our review of our records indicate, you have been granted a previous determination to withhold such information without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). In this instance, we are able to discern the nature of the information that has been redacted; thus, being deprived of that information does not inhibit our ability to make a ruling. Nevertheless, be advised that a failure to provide this office with requested information generally deprives us of the ability to determine whether information may be withheld and leaves this office with no alternative other than ordering the redacted information be released. *See* Gov't Code § 552.301(e)(1)(D) (governmental body must provide this office with copy of "specific information requested"); *id.* § 552.302. Thus, in the future, the university should refrain from redacting, without authorization, any information it submits to this office in seeking an open records ruling.

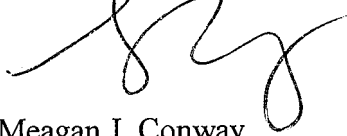
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." *Id.* § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). You state the university has specific marketplace interests in the information at issue because the university is competing with other universities to hire a new assistant coach. You also state the university is currently engaged in contract negotiations. You assert release of the information at issue would negatively impact the university's ability to hire this individual, as it would enable competing universities to counter the university's proposal. 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) of the Government Code.

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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meagan J. Conway', written in a cursive style.

Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/sb

Ref: ID# 656049

Enc. Submitted documents

c: Requestor
(w/o enclosures)