



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 28, 2017

Ms. Jennifer Burnett  
Attorney and Public Information Coordinator  
The University of Texas System  
Office of General Counsel  
210 West 7th Street  
Austin, Texas 78701

OR2017-22269

Dear Ms. Burnett:

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# 678272 (OGC# 176486).

The University of Texas at Arlington (the "university") received a request for existing contracts with a specified company. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of National Student Clearinghouse ("NSC"). Accordingly, you state you notified NSC 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 reviewed the submitted information.

Initially, we note the requestor seeks contracts between the university and NSC. However, you have only submitted to this office as responsive to the request a letter from NSC to the university detailing the work performed by NSC for the university. We note a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume the university has made a good faith effort to do so; however, to the extent any information

responsive to the requestor's request for contracts existed and was maintained by the university on the date the university received the request, we assume you have released it. If you have not released any such information, you 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 that no exceptions apply to requested information, it must release information as soon as possible).

Next, we 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 NSC explaining why the submitted information should not be released. Therefore, we have no basis to conclude NSC has protected proprietary interests 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 university may not withhold the submitted information on the basis of any proprietary interest NSC may have in the information. The university 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,



Ramsey Abarca  
Assistant Attorney General  
Open Records Division

RAA/bw

Ref: ID# 678272

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)