



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 24, 2018

Ms. Diane Morris
Deputy General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2018-01634

Dear Ms. Morris:

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# 692760 (OOG ID# 395-17).

The Office of the Governor (the "governor's office") received a request for information pertaining to payments paid to or requested for the U.S. Grand Prix or Super Bowl in specified years. 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 AngelouEconomics; Circuit Events Local Organizing Committee; Circuit of the Americas; and Formula One Management Ltd ("Formula One"). Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights 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 received comments from counsel for Formula One. We have considered the submitted arguments and reviewed the submitted information.

Initially, 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 the remaining third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of the remaining third parties 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 governor's office may not withhold the submitted information on the basis of any proprietary interest the remaining third parties may have in the information.

Formula One claims a portion of the submitted information is excepted under section 552.104(a) of the Government Code. Section 552.104(a) excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 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. Formula One states it has competitors. In addition, Formula One states release of a specified sanction fee would substantially harm Formula One because its release "would give a competitive advantage to other race promoters throughout the globe who desire the opportunity to stage Formula One events . . . and to competitors of Formula One." After review of the information at issue and consideration of the arguments, we find Formula One 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 information at issue, which we marked, under section 552.104(a) of the Government Code.¹ The governor's office must release the remaining 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/>

¹As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

[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 A. Abarca
Assistant Attorney General
Open Records Division

RAA/gw

Ref: ID# 692760

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 3 Third Parties
(w/o enclosures)