



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 3, 2019

Ms. Cynthia Tynan
Senior Attorney & Public Information Coordinator
The University of Texas System
210 West 7th Street
Austin, Texas 78701

OR2019-09022

Dear Ms. Tynan:

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# 762276 (OGC# 189160).

The University of Texas at Austin (the "university") received a request for all university "football game contracts, memorandums of understanding, letters or cancellations for non-conference opponents for the 2020 season through the 2040 season." 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.

You inform us some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2019-03703 (2019). We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the university may rely on Open Records Letter No. 2019-03703 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 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 [u]niversity competes with other schools with big teams for football games and is thus, a competitor in this marketplace.” In addition, you state release of the submitted information would “allow [the university’s] competitors to undercut the [u]niversity’s negotiation position[,]” and thus, release of the submitted information would “hamper the [u]niversity’s ability to enter into future agreements[.]” After review of the submitted information and consideration of the arguments, we find you established the release of the submitted information 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.

In summary, the university may rely on Open Records Letter No. 2019-03703 as a previous determination and withhold or release the information previously ruled on in accordance with that ruling. 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/gw

Ref: ID# 762276

Enc. Submitted documents

c: Requestor
(w/o enclosures)