



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 24, 2019

Mr. Renaldo Stowers
Senior Associate General Counsel
University of North Texas System
Mail Account #62048
1155 Union Circle #310907
Denton, Texas 76203-5017

OR2019-13855

Dear Mr. Stowers:

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# 767079 (PIR No. 001561)

The University of North Texas System (the "system") received a request for the brand audit conducted by Carnegie Dartlet, LLC ("Carnegie"). You claim the the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Carnegie. Accordingly, you state, and provide documentation showing, you notified Carnegie of the request for information and of its right to submit arguments to this office as to why the submitted information 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 Carnegie. We have reviewed the submitted information and the submitted arguments.¹

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

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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 assert the system has specific marketplace interests in submitted information under section 552.104 because the system and each of its component institutions compete for among other things, research funding. You state the marketplace for research funding is “highly competitive” and release of information at issue would reveal system’s strengths and weaknesses and provide the system’s competitors a competitive edge in co-opting or blocking the system’s efforts to meet the necessary criteria to access the types of funding at issue. Based on these representations and our review, we find you demonstrated the system has specific marketplaces interests and release of information at issue would give advantage to a competitor or bidder. Accordingly, the system may withhold the submitted information under section 552.104(a) of the Government Code.²

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,



Paige Lay
Assistant Attorney General
Open Records Division

PS/mo

Ref: ID# 767079

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.