



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 3, 2019

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

OR2019-14586

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# 768348 (OGC No. 189603).

The University of Texas at Austin (the "university") received a request for a copy of a specified contract involving a named artist and e-mail conversations regarding the contract at issue. You state the university has released some information. You claim some of 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.

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 information you marked contains pricing information related to a contract that had not been executed at the time of the request. You explain that, because the contract has not been executed yet, release of the information at issue before that time would disadvantage the university in obtaining a fair contract should negotiations fail. 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 information you marked under section 552.104(a) of the Government Code.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code.<sup>1</sup> Gov't Code § 552.117(a)(1). Section 552.117 is also applicable to cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (statutory predecessor to section 552.117 not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for the information is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, a governmental body must withhold information under section 552.117(a)(1) on behalf of a current or former official or employee only if the individual made a request for confidentiality under section 552.024 prior to the date on which the request for information was made. Accordingly, the university must withhold the cellular telephone number we have marked under section 552.117(a)(1) of the Government Code if the individual whose information is at issue timely requested confidentiality pursuant to section 552.024 of the Government Code and the cellular telephone service is not paid for by a governmental body. The university may not withhold this information if the individual whose information is at issue did not make a timely election to keep the information confidential or the cellular telephone service is paid for by a governmental body.

In summary, the university may withhold the information you marked under section 552.104(a) of the Government Code. The university must withhold the cellular telephone number we have marked under section 552.117(a)(1) of the Government Code if the individual whose information is at issue timely requested confidentiality pursuant to section 552.024 of the Government Code and the cellular telephone service is not paid for by a governmental body. The university 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/>

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

[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 that reads "Britni Ramirez". The signature is written in a cursive, flowing style.

Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/eb

Ref: ID# 768348

Enc. Submitted documents

c: Requestor  
(w/o enclosures)