



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 18, 2019

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

OR2019-19613

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# 775884 (OGC# 190381).

The University of Texas at Austin (the "university") received a request for information pertaining to a specified contract. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Electronic Arts Inc. ("Electronic Arts"). Accordingly, you state, and provide documentation showing, you notified Electronic Arts 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 Electronic Arts. We have reviewed the submitted information and considered the submitted arguments.

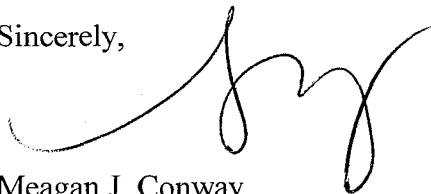
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). In considering whether a private third party may assert this exception, the supreme court reasoned because section 552.305(a) of the Government Code includes section 552.104 as an example of an exception that involves a third party's property interest, 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. Electronic Arts states it has competitors. In addition, Electronic Arts states release of the information at issue would cause "substantial competitive harm[.]" After review of the information at issue and consideration of the arguments, we find Electronic Arts 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 we marked under section 552.104(a) of the Government Code.¹ 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/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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MC/mo

Ref: ID# 775884

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure of the information at issue.