



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 23, 2019

Ms. Ana Viera Ayala
Assistant General Counsel & Public Information Coordinator
The University of Texas System
210 West 7th Street
Austin, Texas 78701

OR2019-19995

Dear Ms. Ayala:

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# 776442 (OGC# 190420).

The University of Texas at Austin (the "university") received a request for eight specified future football game contracts or agreements. 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 previous requests for information, as a result of which this office issued Open Records Letter Nos. 2019-03703 (2019), 2019-09022 (2019), and 2019-18570 (2019). We have no indication there has been any change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, we conclude the university may rely on Open Records Letter Nos. 2019-03703, 2019-09022, and 2019-18750 as previous determinations and withhold or release the identical information in accordance with those rulings. *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 Nos. 2019-03703, 2019-09022, and 2019-18750 as previous determinations and withhold or release the information previously ruled on in accordance with those rulings. The university may withhold the submitted information under section 552.104(a) of the Government Code.

Finally, you ask this office to issue a previous determination that would permit the university to withhold executed game agreements under section 552.104 of the Government Code without requesting a ruling from this office. *See* Gov’t Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Accordingly, 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/be

Ref: ID# 776442

Enc. Submitted documents

c: Requestor
(w/o enclosures)