



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

December 5, 2019

Ms. Kirsty Dymond  
Assistant General Counsel  
Stephen F. Austin State University  
SFA Station  
P.O. Box 13065  
Nacogdoches, Texas 75962-3065

OR2019-34293

Dear Ms. Dymond:

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# 803267.

Stephen F. Austin State University (the "university") received a request for employment contracts, salary information, and outside income forms pertaining to named individuals, as well as specified contracts between the university and named entities. Additionally, the university received a request from a different requestor for a specified agreement between the university and Learfield Communications, Inc. ("Learfield"). Although you take no position as to whether the requested information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Learfield.<sup>1</sup>

---

<sup>1</sup> We note the university did not comply with section 552.301 of the Government Code in requesting a ruling from this office with respect to the first request for information. *See* Gov't Code § 552.301(b), (e). Nonetheless, as the interests of a third party can provide a compelling reason to overcome the presumption of openness, we will consider whether the information at issue is excepted from disclosure. *See id.* §§ 552.007, .302, .352.

Accordingly, you state, and provide documentation showing, the university notified Learfield 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 reviewed the submitted information.

Initially, we note the first request is broader than the second request because, in addition to the university's contract with Learfield, it also seeks certain types of information pertaining to named individuals and additional specified university contracts. Thus, the university need not release information to the second requestor that is not responsive to his request for information.

Next, we note the university has only submitted the university's contract with Learfield. To the extent any additional information responsive to the first request existed on the date the university received that request, we assume the university has already released it to the first requestor. If the university has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

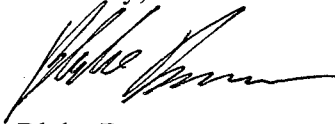
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Learfield explaining why the submitted information should not be released. Thus, we have no basis to conclude Learfield has a protected proprietary interest in the submitted information, and the university may not withhold any portion of it on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the university must release the submitted 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Blake Brennan", written in a cursive style.

Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/gw

Ref: ID# 803267

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

c: Third Party  
(w/o enclosures)