



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 12, 2020

Mr. Jeffrey D. Palmer  
Associate General Counsel  
The University of Houston System  
4302 University Drive, Room 311  
Houston, Texas 77204-2028

OR2020-16010

Dear Mr. Palmer:

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# 832565.

The University of Houston (the "university") received a request for any documents pertaining to four categories of information relating to a specified location. You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, and 552.1235 of the Government Code.<sup>1</sup> Additionally, you state that release of this information may implicate the privacy interests of two named individuals. Accordingly, you state you have notified the individuals of the request and of the individuals' opportunity to submit comments to this office as to why the information should not be released to the requestor.<sup>2</sup> *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released). We have considered the exceptions you claim and reviewed the submitted information.

Section 552.104(a) of the Government Code excepts from disclosure information that a governmental body demonstrates, if released, would "harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at

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<sup>1</sup> Although you raise section 552.101 of the Government Code in conjunction with section 552.104 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).*

<sup>2</sup> As of the date of this letter, we have not received any comments from an individual explaining why any portion of the submitted information should not be released to the requestor.

issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.” 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, 841 (Tex. 2015). After review of the information at issue and consideration of the arguments, we find the university has established the applicability of section 552.104 to the information at issue. Thus, we conclude the university may withhold the submitted information under section 552.104(a) of the Government Code.<sup>3</sup>

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,

Ashley Crutchfield  
Assistant Attorney General  
Open Records Division

AC/rm

Ref: ID# 832565

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure.