



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 2, 2022

Ms. Jennifer Burnett  
Assistant General Counsel & Public Information Coordinator  
The University of Texas System  
210 West 7th Street  
Austin, Texas 78701-2903

OR2022-12353

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# 945248 (OGC #204404).

The University of Texas at Austin (the "university") received a request for specified agreements, excluding certain information. 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 representative sample of information.<sup>1</sup>

Initially, you state the university redacted information that is not responsive to the instant request because it is information specifically excluded by the requestor. This ruling does not address the public availability of any information that is not responsive to the request and the university is not required to release such information in response to this request.

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 issue is set to reoccur or there is a specific and demonstrable intent to enter into the

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<sup>1</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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). You explain the university “relies on donor funding and competes with . . . other public and private institutions . . . to attract and retain donor funding.” You argue release of the information at issue would cause specific harm to the university’s marketplace interests in securing necessary donor funding and would provide a competitive advantage to “competing research institutions, universities, third party companies, and non-profit organizations.” Based upon your representations and our review, we find you have demonstrated the university has specific marketplace interests and may be considered a “competitor” for purposes of section 552.104. We also find you have demonstrated release of the information at issue would give advantage to a competitor or bidder. Accordingly, the university may withhold the responsive information under section 552.104(a) of the Government Code.

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,

Alexandra C. Burks  
Assistant Attorney General  
Open Records Division

ACB/jm

Ref: ID# 945248

Enc. Submitted documents

c: Requestor  
(w/o enclosures)