



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 14, 2023

Ms. Katherine Anthony Green
General Counsel
Texas Woman's University System
P.O. Box 425497
Denton, Texas 76204

OR2023-09022

Dear Ms. Green:

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# 042736 (TPIA_2022_115).

Texas Woman's University (the "university") received a request for information pertaining to grant applications and awards involving a specified third party.¹ You claim the submitted information is exempt from disclosure under sections 552.104 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.104(a) of the Government Code exempts 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 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*,

¹ The university states it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

466 S.W.3d 831, 841 (Tex. 2015). You explain the information at issue pertains to an application for grant funding of certain university research projects. We understand you to assert the university has specific marketplace interests in the information at issue because the university competes with other institutions of higher education for research grant funding. You argue release of the information at issue would provide a competitive advantage to the university's competitors and would negatively affect the university's interests. 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 submitted information would give advantage to a competitor or bidder. Accordingly, the university may withhold the submitted information under section 552.104(a) of the Government Code.²

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/pt

Ref: ID# 042736

c: Requestor

² As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.