ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 25, 2012

Ms. Jenny Urquhart
Assistant General Counsel
University of North Texas System
1155 Union Circle, #310907
Denton, Texas 76203-5017

OR2012-05904

Dear Ms. Urquhart:

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# 451895 (UNT PIR No. 001005).

The University of North Texas (the "university") received a request for a copy of the university's Blackboard Analytics contract. Although you take no position as to the public availability of the submitted information, you state its release may implicate the proprietary interests of MMSM Holdings, LLC ("MMSM"). Thus, pursuant to section 552.305 of the Government Code, you notified MMSM of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have reviewed the submitted information.

We note 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, MMSM has submitted no comments to this office explaining how release of the information at issue would affect its proprietary interests. *See id.* § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized

allegations, that it actually faces competition and that substantial competitive injury would result from disclosure); Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the university may not withhold any of MMSM's information on the basis of that company's proprietary interests. As no exceptions to disclosure have been raised, the submitted information must be released to the requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

Charles Galindo Jr.
Assistant Attorney General
Open Records Division

CG/em

Ref: ID# 451895

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Mark Max
MMSM Holdings, LLC
300 Redland Court, Suite 300
Owings Mills, Maryland 21117
(w/o enclosures)