



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2013

Ms. Zeena Angadicheril
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2013-18617

Dear Ms. Angadicheril:

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# 504223 (OGC# 151541).

The University of Texas at Austin (the "university") received a request for specified e-mails, contracts, and other information related to the "Texas Bookshelf" or Texas book series.¹ You inform us the university is withholding information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code.² You also inform us the university is withholding e-mail addresses of members of the public under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009) and is withholding social security numbers under section 552.147(b) of the Government

¹You state the university 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).

²Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body. *See* Gov't Code § 552.117(a)(1). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c).

Code.³ You state the university is releasing some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.⁴

Section 552.104 of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). This exception protects a governmental body's interests in connection with competitive bidding and in certain other competitive situations. *See* Open Records Decision No. 593 (1991) (construing statutory predecessor). This office has held a governmental body may seek protection as a competitor in the marketplace under section 552.104 and avail itself of the "competitive advantage" aspect of this exception if it can satisfy two criteria. *See id.* First, the governmental body must demonstrate it has specific marketplace interests. *See id.* at 3. Second, the governmental body must demonstrate a specific threat of actual or potential harm to its interests in a particular competitive situation. *See id.* at 5. Thus, the question of whether the release of particular information will harm a governmental body's legitimate interests as a competitor in a marketplace depends on the sufficiency of the governmental body's demonstration of the prospect of specific harm to its marketplace interests in a particular competitive situation. *See id.* at 10. A general allegation of a remote possibility of harm is not sufficient. *See* Open Records Decision No. 514 at 2 (1988).

You state the university seeks to publish a series of books on the history of the state of Texas (the "state"). You inform us the university has an agreement with one author to publish one book. You further inform us the university is in discussions with other authors to publish additional books in the series. You explain the university has an interest in establishing itself as a publisher with the potential to offer unique perspectives on important social issues. You also contend the discoveries and advances generated by the university's researchers' efforts are necessary to the state's continued economic advancement. Based on your representations, we find you have established the university has a legitimate marketplace interest in the book publishing business for purposes of section 552.104.

You state the submitted information consists of discussions pertaining to preliminary matters relating to the book series. You explain the information contains details of ongoing and

³Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

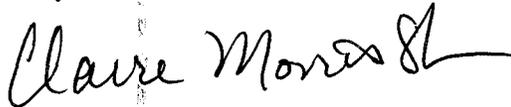
⁴We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

unpublished research conducted by university employees. You argue release of the submitted information would potentially abolish the monetary value the university is projected to gain from this project. You assert such release would provide other authors and publishers the information needed to pursue the same approach and publish similar materials, allowing competitors to gain an unfair advantage over the university. Thus, you argue release of the submitted information would compromise the university's competitive advantage in the marketplace by placing research and analytical plan information in a public forum. Based on your representations and our review of the submitted information, we find the university has demonstrated release of the submitted information would cause specific harm to the university's marketplace interests. We therefore conclude the university may withhold the submitted information under section 552.104 of the Government Code.⁵

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 504223

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁵As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.