



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 23, 2015

Ms. Ana Vieira Ayala
Senior Attorney & Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2015-24595

Dear Ms. Ayala:

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# 588199 (OGC# 164417).

The University of Texas at Austin (the "university") received a request for licensing agreements related to a specified technology during a specified period of time. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.104 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Silicon Audio RF Circulator, L.L.C. ("Silicon"). Accordingly, you state, and provide documentation showing, you notified Silicon of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

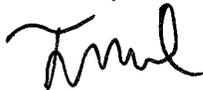
Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The

“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 assert the university has a specific marketplace interest in the submitted information because the university “is a competitor in the marketplace with regard to research discoveries and subsequent licensing of technologies discovered and patented.” You state the university “is providing a ‘service’ or ‘good’ by licensing its inventions to these third parties.” You further state the university “is involved in ongoing negotiations regarding pricing and marketing with its licensee(s) as amendments become necessary to protect the interests” of the university. You explain release of this information would compromise the university’s position in a competitive market and cause irreparable financial harm to the university because these agreements reflect the approach taken by the university when negotiating how to license its intellectual property and other research facilities would know the specific terms the university is willing to accept. Based on these representations and our review, we find the university has demonstrated release of the submitted information would give advantage to a competitor or bidder. Therefore, we conclude the university may withhold the submitted information under section 552.104.¹

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 588199

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)