



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 6, 1996

Mr. Max J. Werkenthin
The University of Texas System
Office of General Counsel
201 West Seventh Street
Austin, Texas 78701-2981

OR96-2039

Dear Mr. Werkenthin:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 101777.

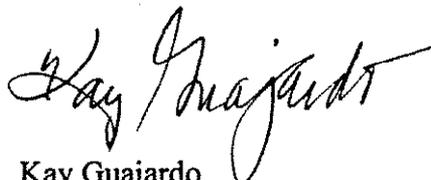
The University of Texas System ("UTS") received a request for several items of information. You inform us that UTS will release to the requestor the bulk of the requested information. However, you assert that a document titled University of Texas Investment Office Study (the "study") dated December 16, 1994, and prepared by Cambridge Associates, Inc. ("Cambridge"), is excepted from required public disclosure based on sections 552.104 and 552.110 of the Government Code. Cambridge has submitted information to this office to support the applicability of the exceptions you raise.

Section 552.110 excepts from disclosure two categories of information: (1) "[a] trade secret" and (2) "commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision." In applying the "commercial or financial information" branch of section 552.110, this office now follows the test for applying the correlative exemption in the Freedom of Information Act, 5 U.S.C. § 552(b)(4). *See* Open Records Decision No. 639 (1996). That test states that commercial or financial information is confidential if disclosure of the information is likely either (1) to impair the government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

We have reviewed the documents and considered the exceptions you raise. We conclude that pursuant to the "commercial or financial information" branch of section 552.110 of the Government Code, UTS must withhold from public disclosure the specific portions of the study Cambridge has delineated as confidential.

Having concluded UTS must withhold the information from disclosure based on section 552.110, we need not address your section 552.104 claim. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 101777

Enclosures: Submitted documents

cc: Ms. Keely Coghlan
164 Jester Circle
Longview, Texas 75604