



October 30, 2000

Mr. Robert L. Kane  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2000-4211

Dear Mr. Kane:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 140941

The University of Texas System (the "university") received a request for

[a]ll University of Texas at Austin documents relating to The Consortium for Graduate Study in Management including, but not limited to, all documents pertaining to the Red McCombs School of Business participating in the Consortium for Graduate Study in Management and all records indicating the amount of money The Business School and the U.T. Administration have contributed to the Consortium for Graduate Study in Management.

You indicate that the requestor has limited his request to include only records produced after 1996 and to exclude student records. You indicate that you have no objection to the release of responsive information "that pertains to both the University and the Consortium." You also indicate that you have released such responsive information to this requestor. However, you have provided to this office information what you contend is a representative sample of responsive information which you assert is not "public information" subject to the public disclosure requirements of chapter 552 of the Government Code.<sup>1</sup> You also claim that a portion of the responsive information is excepted under sections 552.101 and 552.110 of the Government Code.

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<sup>1</sup>We assume that 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 that those records contain substantially different types of information than that submitted to this office.

We shall refer to the Consortium for Graduate Study in Management as the "consortium." Representatives of the consortium have also provided comment to this office, arguing that the responsive information is not subject to the disclosure requirements of Chapter 552 of the Government Code. *See* Gov't Code 552.304 (person may submit written comments to attorney general stating reasons why information should be withheld). We have considered the claims presented and reviewed the submitted information.

We first note that the request includes "all records indicating the amount of money The Business School and the U.T. Administration have contributed to the Consortium for Graduate Study in Management." The university did not provide any information to this office which is responsive to this facet of the request and we cannot determine from your comments whether such information has been released to this requestor. This information, should it exist, must be released to the requestor. *See* Gov't Code §§ 552.022(a)(3), 552.301, 552.302.

We now turn to the argument that a portion of the information responsive to this request is not "public information." The Public Information Act requires a governmental body to make requested public information available to the public. Gov't Code § 552.021. "Public information" is defined as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002.

The university informs us that the responsive information

is not collected or assembled or maintained under any law or ordinance or in connection with the transaction of official business by the University of Texas. The university employees who are members of the board of directors of the Consortium are not directors as a part of their official duties with the university. Furthermore, they only possessed the requested information in their capacity as Consortium directors.

The university further asserts that "no university has the right to the information of the Consortium nor do they have the right of access to the information." Based on these representations we conclude that the submitted information is not "public information," and is therefore not subject to required public disclosure under the Public Information Act.

As the above discussion disposes of this request, we do not address your arguments raised under other provisions of the Government Code. This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

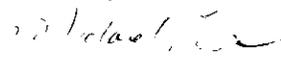
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

  
Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/er

Ref: ID# 140941

Encl: Submitted documents

cc: Mr. Marc Levin  
Austin Review  
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(w/o enclosures)