ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 15, 2006

Ms. Cherry Kay Wolf
Associate General Counsel
Texas A&M University System
200 Technology Way, Suite 2079
College Station, Texas 77845-3424

OR2006-04971

Dear Ms. Wolf:

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# 248975.

The Texas A&M University System (the "system") received three requests from the same requestor for information related to a 2005 bond sale, the Southern Association of Colleges and Schools, and federal funding programs.[1] You state that you will release some of the requested information upon receipt of payment. You have submitted information that you claim is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

We note that the system has other requests for rulings pending with this office that involve this same requestor and that in some instances his requests for information overlap. To the extent that the system has not submitted any responsive information that is the subject of a prior ruling or a pending request for a ruling, the system should follow the direction of that ruling with respect to any such information.[2] To the extent that the system has not submitted responsive information that is not the subject of a prior ruling or a pending request for a ruling, we assume that any such information has been released. If the system has not already

[1]You inform us that these are this requestor's 128th, 129th, and 130th requests for information.

[2]We note that request number 129 appears to be the subject of Open Records Letter Nos. 2006-4087 (2006) and 2006-3668 (2006). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

released any such information, then it must do so at this time.[3] *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

Next, we note that the submitted information consists of resolutions adopted by the system. Because laws and ordinances are binding on members of the public, they are matters of public record and may not be withheld from disclosure under the Act. *See* Open Records Decision No. 221 at 1 (1979) ("official records of the public proceedings of a governmental body are among the most open of records"); *see also* Open Records Decision No. 551 at 2-3 (1990) (laws or ordinances are open records). The submitted resolutions are analogous to ordinances. Accordingly, the system must release the submitted resolutions and any document attached or incorporated by reference into those resolutions.

We note, however, that some of the submitted information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990). Therefore, the submitted information must be released, but any copyrighted information must be released in accordance with copyright law. As our ruling is dispositive, we do not address your claimed exception.

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).

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[3]We note that the Act does not require the system to release information that did not exist when it received these requests or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

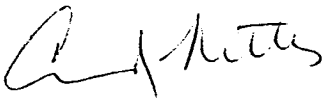
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Hadassah Schloss at the Office of the Attorney General 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,



Cindy Nettles
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Open Records Division

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Ref: ID# 248975

Enc. Submitted documents

c: Mr. Richard Tansey
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(w/o enclosures)