



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 29, 2009

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

OR2009-10532

Dear Ms. Chatterjee:

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# 350767.

The University of Texas Medical Branch at Galveston ("UTMB") received a request for all leave requests, reimbursement requests, and airline itineraries for a named individual from January 1, 2006 to the date of the request. You state that some of the information responsive to this request no longer exists because it was stored only in hard copy form and was destroyed by Hurricane Ike.<sup>1</sup> You state that UTMB is releasing some of the requested information. You claim that a portion of the requested information, which you have marked, is excepted from disclosure under sections 552.136 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup> We note that the Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup> We 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.

Section 552.136 of the Government Code provides that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b). An access device number is one that may be used to “(1) obtain money, goods, services, or another thing of value; or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Accordingly, UTMB must withhold the frequent flyer number you have marked under section 552.136 of the Government Code.

Section 552.137 makes certain e-mail addresses confidential, providing the following:

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract; or

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public.

(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

Gov’t Code § 552.137. Under section 552.137, a governmental body must withhold the e-mail address of a member of the general public, unless the individual to whom the e-mail

address belongs has affirmatively consented to its public disclosure. *See id.* § 552.137(a), (b). The types of e-mail addresses listed in subsection (c) may not be withheld under section 552.137. Additionally, we note that section 552.137 does not apply to the work e-mail addresses of officers or employees of a governmental body. Therefore, UTMB must generally withhold the e-mail address you have marked under section 552.137. However, to the extent the marked e-mail address belongs to an employee of an entity with which UTMB has a contractual relationship, the e-mail address may not be withheld under section 552.137.

In summary, UTMB must withhold the marked frequent flyer number under section 552.136. UTMB must withhold the marked e-mail addresses under section 552.137, unless the address belongs to an employee of an entity with which UTMB has a contractual relationship or the owner has affirmatively consented to its release.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/sdk

Ref: ID# 350767

Enc. Submitted documents

c: Requestor  
(w/o enclosures)