



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 7, 2010

Mr. James G. Nolan  
Assistant General Counsel  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

OR2010-00319

Dear Mr. Nolan:

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# 367086 (CPA ORTS#s 5972993427 and 5996981818).

The Texas Comptroller of Public Accounts (the "comptroller") received two requests for information related to the Texas Guaranteed Tuition Plan. You state that you will release some of the requested information. You claim that portions of the requested information are excepted from disclosure under section 552.101 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, including section 54.643(a) of the Education Code provides in relevant part:

Records in the custody of the board relating to the participation of specific purchasers and beneficiaries in the program are confidential.

Educ. Code § 54.643(a). Section 54.601 defines "board" as the Prepaid Higher Education Tuition Board (the "board") and defines "program" as the prepaid higher education tuition

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<sup>1</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.

program. *Id.* § 54.601(2), (8). Further, section 54.602 provides that the board is in the office of the comptroller and shall administer the program. *Id.* § 54.602. Section 54.601 also defines a “purchaser” as a person who is obligated to make payments under a prepaid tuition contract and a “beneficiary” as a person who is entitled to receive benefits under a prepaid tuition contract. *Id.* § 54.601(1), (11). After reviewing the submitted information, we conclude that portions of the documents relate to the participation of specific purchasers and beneficiaries in the prepaid higher education tuition program. Therefore, you must withhold the information you have marked under section 552.101 in conjunction with section 54.643(a) of the Education Code.<sup>2</sup> The remaining information must be released.

Finally, you ask this office to issue the comptroller a previous determination regarding the type of information at issue in the instant case. *See* Gov’t Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). We decline to issue a previous determination for this type of information at this time.

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, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 367086

Enc. Submitted documents

c: Requestors  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.