



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 12, 2010

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

OR2010-00565

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# 366961.

The University of Texas System (the "university") received a request for four categories of information pertaining to a named university employee and certain correspondence relating to the U.S. Department of Homeland Security's Homeland Security Science and Technology Advisory Committee. You claim the submitted information is not subject to the Act or, alternatively, is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. You also explain that the submitted information may contain a third party's proprietary information subject to exception under the Act. Accordingly, you have notified the U.S. Department of Homeland Security ("DHS") of this request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received comments from DHS, considered the submitted arguments, and reviewed the submitted information.

Section 552.021 of the Government Code provides for public access to "public information," which is defined by section 552.002 of the Government Code as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002(a). Thus, information that is collected, assembled, or maintained by a third party may be subject to disclosure under the Act if a governmental body owns or has a right of

access to the information. *See* Open Records Decision No. 462 (1987); *cf.* Open Records Decision No. 499 (1988).

The submitted information consists of communications between a university employee and DHS and relates to the employee's service on DHS's Homeland Security Science and Technology Advisory Committee (the "committee"). You state that, when this employee participated as a member of the committee, "he served as a citizen and a member of his profession, but not as a representative or employee of [the university]." You further assert the submitted information was created by the committee and transmitted to the employee in his capacity as a member of the committee, not as a representative or employee of the university. Thus, you argue these communications were "created by and for [the committee] and were not 'collected, assembled, or maintained' by or for [the university]." After reviewing your arguments and the information at issue, we agree that this information does not constitute "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the university. *See* Gov't Code § 552.021; *see also* Open Records Decision No. 635 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving de minimis use of state resources). Therefore, we conclude that the submitted information is not subject to the Act and need not be released in response to this request.¹

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_or1.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,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/rl

¹As this ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 366961

Enc. Submitted documents

c: Requestor
(w/o enclosures)

cc: Mr. Brad Buswell
Science and Technology Directorate
Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528
(w/o enclosures)