



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 10, 2010

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

Attorney General of Texas

OR2010-08495

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. This office also received a request for review of the redaction of certain information subject to the Act. We have combined these requests and will consider the issues presented in this single ruling assigned ID# 382357.

The University of Texas Health Science Center at Houston (the "university") received a request for (1) the names and addresses of corporations or individuals that donated to the university; (2) all information regarding the university's president, including his salary and employment contract; (3) all correspondence between the university and the Office of the Attorney General (the "OAG") regarding the requestor's complaint against the university; and (4) a list of all charities to which the university has referred individuals who need assistance with paying certain expenses. You state the university does not have any information responsive to the request for correspondence between the university and the OAG.¹ You also state the university has provided to the requestor the requested information regarding the university's president and the list of charities. As permitted by section 552.024(c)(2) of the Government Code, you redacted from the information provided to the requestor information you determined to be subject to section 552.117 of the

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *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), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Government Code without requesting a decision from this office. Pursuant to section 552.024(c-1), the requestor has asked this office to review the redacted information and render a decision as to whether this information is excepted from disclosure. Additionally, you claim the submitted donor information is excepted from disclosure under section 552.1235 of the Government Code. We have considered the exceptions claimed and reviewed all of the information at issue.

Section 552.1235 of the Government Code excepts "the name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education[.]" Gov't Code § 552.1235(a). "Institution of higher education" is defined by section 61.003 of the Education Code. *Id.* § 552.1235(c). Section 61.003 of the Education Code defines an "institution of higher education" as any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined in this section. Educ. Code § 61.003(8). We agree the university qualifies as an "institution of higher education" under section 61.003 of the Education Code. Further, because section 552.1235 of the Government Code does not provide a definition of "person," we look to the definition provided in the Code Construction Act. *See* Gov't Code § 311.005. "Person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity. *Id.* § 311.005(2).

You seek to withhold the submitted donor information, which consists of names and addresses, under section 552.1235. You contend the information identifies donors to the university. Based upon your representations and our review, we agree the submitted names and addresses identify persons as actual donors to the university. Accordingly, we conclude the university must withhold the submitted donor names and addresses under section 552.1235 of the Government Code.

As previously noted, pursuant to section 552.024(c)(2) of the Government Code, the university redacted information it determined to be subject to section 552.117 of the Government Code from the information provided to the requestor. You have provided that information to this office in response to the requestor seeking a ruling from this office regarding whether or not the information you redacted under section 552.117 is so excepted. Section 552.117(a)(1) excepts from disclosure the current and former home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. *Id.* § 552.117(a)(1). Whether information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The university may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. You state, and provide documentation

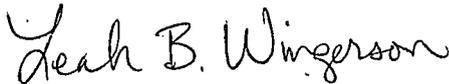
showing, the employee whose information is at issue timely chose to not allow public access to his personal information. Accordingly, we agree the university must withhold the information you redacted pursuant to section 552.117(a)(1) of the Government Code.

In summary, the university must withhold the submitted donor names and addresses under section 552.1235 of the Government Code, and the redacted information under section 552.117(a)(1) of the Government Code. The remaining information must be released.

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, 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 382357

Enc. Submitted documents

c: Requestor
(w/o enclosures)