



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 16, 2010

Mr. Mark Adams
Office of the General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2010-17364

Dear Mr. Adams:

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# 401699.

The Office of the Governor (the "governor") received a request for a contract for the Texas Emerging Technology Fund Grant (the "fund") award to Texas Tech University System ("Texas Tech") for the launch of the National Institute for Renewable Energy and National Wind Resource Center. You state the governor has provided the ETF agreement to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of the remaining submitted information may implicate the interests of Texas Tech, which you have notified. We have received comments from Texas Tech. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

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. This section encompasses information made confidential by other statutes,

such as section 490.057 of the Government Code, which addresses the confidentiality of certain information pertaining to the fund. Section 490.057 provides:

Information collected by the governor's office, the [Texas Emerging Technology Advisory C]ommittee, or the committee's advisory panels concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity being considered for an award from the fund is confidential unless the individual or entity consents to disclosure of the information.

Id. § 490.057. You state the submitted information concerns the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of Texas Tech, which was being considered for an award from the fund. You inform us Texas Tech has not consented to disclosure of the information at issue. Based upon your representations and our review, we find the submitted information concerns the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an entity being considered for an award from the fund. Therefore, this information is confidential under section 490.057 of the Government Code and must be withheld under section 552.101 of the Government Code. As we are able to make this determination, we need not address Texas Tech's argument against disclosure.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 401699

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Sheila Kidwell
Associate General Counsel
Office of the General Counsel
Texas Tech University System
P.O. Box 42021
Lubbock, Texas 79409-2021
(w/o enclosures)