



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 26, 2011

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

OR2011-07459

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# 417477 (OGC# 135745).

The University of Texas at Austin (the "university") received a request for three categories of information, including (1) all public records related to the Arizona Sports Foundation's (the "foundation") annual "Fiesta Frolic" trip and any other meetings or trips sponsored in whole or in part by the foundation or any affiliate; (2) all public records pertaining to the activities and operations of the Bowl Championship Series (the "BCS"); and (3) all public records related to college football playoffs and Playoff PAC. You state the university will release some of the requested information. You claim the remaining information is not subject to the Act. You also inform us that release of this information may implicate the interests of third parties. Thus, the university has notified the Big 12 Conference (the "Big 12") and the Executive Director of the BCS of the present request and their opportunity to submit arguments against disclosure of the information. *See* Gov't Code § 552.304 (providing interested party may submit comments stating why information should or should not be released). We have considered your arguments and reviewed the submitted representative samples of information.<sup>1</sup> We have also considered comments submitted by the requestor. *See id.*

---

<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.

The university argues the submitted information is not subject to the Act. Section 552.021 of the Government Code provides for public access to "public information," *see id.* § 552.021, 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." *Id.* § 552.002(a). You state the submitted records are communications to and from the university's president in his capacity as the Chair of the Board of Directors of the Big 12 (the "board") or as a member of the Presidential Oversight Committee (the "committee") of the BCS, not in his capacity as president of the university. Furthermore, these communications pertain to the decisions and operations of the Big 12 and the BCS, not the operations of the university.

The requestor argues, however, that the submitted information is public for two reasons. First, the requestor asserts that because the BCS is not a legal entity, the president cannot act in a capacity on the committee separate from his role as the university's president. Even if the BCS is not considered a legal entity, this distinction is not relevant to our analysis. Both the BCS and the Big 12 are organizations which include public and private universities that have entered into contractual relationships pertaining to university athletics, broadcasting rights, and revenue sharing. Furthermore, the committee and the board consist of university presidents and chancellors who only sit on these bodies because of their positions at the universities. In prior informal letter rulings, this office has found a university president acts in a capacity separate from his capacity with the university when he acts as board chair. Thus, it is the capacity in which the university's president is acting when he receives or sends the communications that is the relevant inquiry. Second, the requestor claims the submitted information implicates official university business because the president's involvement with the Big 12 and the BCS impacts the university's official athletic activities. It is true the university's athletic activities may ultimately be affected by decisions of the athletic governing bodies to which it is a member. This office has also ruled in informal letter rulings that information pertaining to these decisions that is maintained by university officials and employees in their official capacities is public information subject to the Act. In this instance, however, the president is holding the requested information in his capacity as board chair and committee member, not in his capacity as the university's president. Furthermore, the submitted records concern the official business of the Big 12 and the BCS, not the transaction of official university business. We therefore agree the submitted information is not information that is collected, assembled, or maintained in connection with the transaction of official business by or for the university. Accordingly, we conclude the submitted information is not subject to the Act and need not be released in response to this request.

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, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/eb

Ref: ID# 417477

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Dan Beebe  
Commissioner  
Big 12 Conference  
400 East John Carpenter Freeway  
Irving, Texas 75062  
(w/o enclosures)

Mr. Bill Hancock  
Executive Director  
Bowl Championship Series  
3965 West 83<sup>rd</sup> Street, #283  
Prairie Village, Kansas 66208  
(w/o enclosures)