



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 23, 2011

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

OR2011-13786

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# 430837 (OGC# 138389).

The University of Texas Health Science Center at San Antonio (the "university") received a request for two categories of e-mails stored on the university's servers that were sent to or from a named university employee during a specified time period.¹ You claim the submitted information is not subject to the Act. You also claim portions of the submitted information are excepted from disclosure under section 552.137 of the Government Code. You inform us you have notified two named individuals, one of whom is a trustee for the TRUE Research Foundation, of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). As of the date of this letter, this office has received no correspondence

¹You inform us the university received clarification of the first category of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

from either of the individuals you notified. We have considered your arguments and reviewed the submitted representative sample of information.²

The Act applies 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. *Id.* § 552.002; *see also id.* § 552.021. Information is generally subject to the Act when it is held by a governmental body and it relates to the official business of a governmental body, or is used by a public official or employee in the performance of official duties. Thus, virtually all of the information in a governmental body’s physical possession constitutes public information and thus is subject to the Act. *Id.* § 552.002(a)(1). You state the submitted information relates to the named university employee’s participation as a member of the board of directors (the “board”) of the TRUE Research Foundation, which is an organization unrelated to the university. You also state the employee serves on the board as a member of his profession and as a citizen, but not in his role as a university employee. Further, you inform us the submitted information represents permitted incidental use of the university’s e-mail system. Therefore, you argue the submitted information was “created by and for” the board, and was not “‘collected, assembled, or maintained’ by or for” the university. Based on your representations and our review, we agree 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 id.* § 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). Thus, the submitted information does not constitute public information as defined by section 552.002 and the university is not required to release this information under the Act.³

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,

²We 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.

³As our ruling is dispositive, we need not address your remaining argument against disclosure.

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# 430837

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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