



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 11, 2012

Ms. Carol Longoria  
Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701

OR2012-16307

Dear Ms. Longoria:

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# 467994 (OGC# 145345).

The University of Texas at Austin (the "university") received a request for all e-mails between a named individual and any board members or executive managers at Plains Exploration & Production Company ("Plains"), the Texas Oil & Gas Association, and the American Petroleum Institute. You state the university does not possess the requested e-mails between the named individual and the Texas Oil & Gas Association.<sup>1</sup> You state you will release some of the requested information to the requestor. You have marked personal e-mail addresses under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>2</sup> You have also marked social security numbers under section 552.147 of the Government Code.<sup>3</sup> You state the requested information is not subject

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<sup>1</sup>In responding to a request for information under the Act, a governmental body is not required to disclose information that did not exist at the time 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).

<sup>2</sup>This office issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

to the Act. Alternatively, you claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Plains. Accordingly, you have notified Plains of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); 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 Plains. We have considered the submitted arguments and reviewed the submitted information, portions of which are representative samples.<sup>4</sup>

Section 552.021 of the Government Code provides for public access to "public information." Gov't Code § 552.021. Section 552.002 of the Government Code defines public information 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). 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). You state the submitted information consists of communications that are related to the named individual's membership on the board of directors for a private company. You assert the named individual received these communications in his capacity as a board member for the private company, not in his capacity as an employee of the university, and these communications pertain to the private company and not the operations of the university. Having considered the university's arguments and reviewed the submitted information, we find the submitted information was not "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the university. Gov't Code § 552.002; *see* 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, the submitted information is not subject to the Act, and the university is not required to release it in response to the request for information.<sup>5</sup>

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<sup>4</sup>We assume that 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 that those records contain substantially different types of information than that submitted to this office.

<sup>5</sup>As our ruling is dispositive, we need not address the remaining arguments 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](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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 467994

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Terry B. Collier  
Senior Counsel  
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(Third party w/o enclosures)