



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 31, 2012

Mr. R. Brooks Moore  
Managing Counsel, Governance  
The Texas A&M University System  
301 Tarrow Street, Sixth Floor  
College Station, Texas 77840-7896

OR2012-17402

Dear Mr. Moore:

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# 469598 (TAMU ID# 12-385).

Texas A&M University (the "university") received a request for communications received by or sent from a named individual during a specified time period. You claim a portion of the submitted information is excepted from disclosure under section 552.1235 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted certain bi-weekly gift reports. To the extent any other information responsive to the request existed on the date the university received the request for information, we assume you have released it. If you have not released any such information, you must do so at this time. See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must be released as soon as possible).

Next, we note, and the university acknowledges, that it did not comply with the procedural requirements of section 552.301(e) of the Government Code. See Gov't Code § 552.301(e). Pursuant to section 552.302 of the Government Code, the information at issue is therefore presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. See *id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. See Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). As

section 552.1235 can provide a compelling reason for non-disclosure, we will address the applicability of that section to the submitted information.

Section 552.1235 excepts from disclosure "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). For purposes of this exception, "institution of higher education" is defined by section 61.003 of the Education Code. *Id.* § 552.1235(c). Section 61.003 defines an "institution of higher education" as meaning "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). Because section 552.1235 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 a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity. *Id.* § 311.005(2).

You have marked information in Exhibit B the university seeks to withhold under section 552.1235. You state this marked information identifies donors to the university, and these donors have not granted the university permission to publicly reveal their identities. Based on your representation and our review, we agree the information you marked in Exhibit B identifies donors to the university. Accordingly, the university must withhold the information you marked in Exhibit B under section 552.1235 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](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,



Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/ag

Ref: ID# 469598

Enc. Submitted documents

c: Requestor  
(w/o enclosures)