



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2012

Mr. Ronny H. Wall
Associate General Counsel
Office of the General Counsel
Texas Tech University System
P.O. Box 42021
Lubbock, Texas 79409-2021

OR2012-20371

Dear Mr. Wall:

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# 474171.

The Texas Tech University System (the "system") received a request for the names of the four recommended candidates for president of Angelo State University (the "university"), which is a component of the system. You claim that the submitted information is excepted from disclosure under sections 552.117, 552.123, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note that the request for information is only for names of the four finalists for president of the university. Accordingly, the remaining information you submitted is not responsive to the request. This ruling does not address the public availability of any

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

information that is not responsive to the request, and the system need not release such information in response to the request.

Section 552.123 of the Government Code excepts from required public disclosure:

The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, . . . except that the governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

Gov't Code § 552.123. This office has previously held, and in 2011 the legislature amended section 552.123 to explicitly provide, that this exception permits the withholding of any information that would tend to identify candidates, not just their names. Examples of information identifying individuals might include, but are not limited to, resumes, professional qualifications, membership in professional organizations, dates of birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant. See Open Records Decision No. 540 at 4 (1990) (construing statutory predecessor to section 552.123). In addition, the exception protects the identities of all persons being considered for the position of university chief executive officer, whether they are nominated or apply on their own initiative. *Id.* at 5.

You state the university is an “institution of higher education” as defined by section 61.003(8) of the Education Code, and its president is the “chief executive officer” of the university. You state the submitted information contains the names of the four finalists for the position of president of the university. You explain, as of the date the system received the present request for information, no candidate was named as a finalist for the position. Based on your representations and our review, we conclude the system may withhold the responsive names of the finalists under section 552.123 of the Government Code.²

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

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of the responsive information.

(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,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive style with a large initial "L".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 474171

Enc. Submitted documents

c: Requestor
(w/o enclosures)