



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 15, 2013

Ms. Karin W. Riley
Associate General Counsel
University of North Texas
1901 Main Street, Suite 216
Dallas, Texas 75201-5222

OR2013-00887

Dear Ms. Riley:

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# 476244.

The University of North Texas (the "university") received a request for a specified statement. You claim the submitted information is exempted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

We must address the university's obligations under the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b) of the Government Code, the governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). In this instance, you state the university received the request for information on October 18, 2012. Thus, the university's ten-business-day deadline was November 1, 2012. However, the envelope in which the university sent its request for a ruling bears a postmark date of November 2, 2012. *See id.*

¹We 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.

§ 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Thus, we find the university failed to comply with the requirements of section 552.301 with regard to the request.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). We note section 552.107(1) is discretionary in nature; it serves only to protect a governmental body's interests and may be waived. As such, section 552.107(1) does not constitute a compelling reason to withhold information for purposes of section 552.302. *See* Open Records Decision Nos. 676 at 11-12 (2002) (attorney-client privilege under section 552.107(1) subject to waiver), 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (waiver of discretionary exceptions). Thus, no portion of the submitted information may be withheld under section 552.107(1) of the Government Code. As you raise no further exceptions to disclosure, the submitted information must be released in its entirety.

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 (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# 476244

Enc. Submitted documents

**c: Requestor
(w/o enclosures)**

