



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 29, 2013

Mr. R. Brooks Moore
Managing Counsel, Governance
The Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77840-7896

OR2013-07007

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# 485670 (TAMU 13-075).

Texas A&M University (the "university") received a request for information regarding funding received by two named professors, any conflict-of-interest or outside income disclosures pertaining to the named professors, and any funding records regarding the Mary Kay O'Conner Process Safety Center. You claim some 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 representative sample of information.

Initially, we note you have not submitted the requested conflict-of-interest or outside income disclosures. Although you state the university submitted a representative sample of information, we find the submitted information is not representative of this type of information. Please be advised this open records letter applies only to the type of information you have submitted for our review. Therefore, this letter ruling 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. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information is presumed to be public). Thus, to the extent any information responsive to the requested conflict-of-interest or outside income disclosures

existed when the present request was received, we assume it has been released.¹ If such information has not been released, then it must be released at this time. *See id.* §§ 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 release information as soon as possible).

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 the information the university seeks to withhold under section 552.1235. You inform us the information at issue identifies donors to the university. Based on your representations on our review, we agree portions of the information at issue, which we have marked, identify persons who are donors to the university. Accordingly, we conclude the university must withhold the information we have marked under section 552.1235 of the Government Code. However, we find that a post office box number does not tend to disclose a person’s identity; thus, the university may not withhold a donor’s post office box number on this basis. Additionally, the remaining persons at issue are publicly identified as donors on the university’s website or in university publications available on the internet. Thus, we conclude none of the remaining information may be withheld under section 552.1235. As you raise no further exceptions to disclosure, the remaining information must be released.

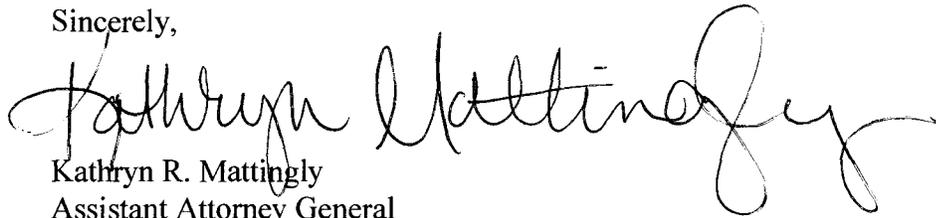
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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,

¹We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *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), 555 at 1 (1990), 452 at 3 (1986).

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,

A handwritten signature in black ink, appearing to read "Kathryn R. Mattingly". The signature is fluid and cursive, with a large loop at the end of the last name.

Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 485670

Enc. Submitted documents

c: Requestor
(w/o enclosures)