



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 3, 2013

Mr. Renaldo L. Stowers
Senior Associate General Counsel
University of North Texas System
1155 Union Circle, #310907
Denton, Texas 76203-5017

OR2013-11343

Dear Mr. Stowers:

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# 492200 (UNT PIR No. 000691).

The University of North Texas System (the "system") received a request for a specified telephone call log and certain e-mails and attachments. You indicate the system has released or will release some information to the requestor. You state the system will redact personal e-mail addresses under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You claim some of the submitted information is not subject to the Act. In addition, you claim the submitted information is excepted from disclosure under sections 552.101 and 552.106 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you argue some of the submitted information does not consist of public information subject to the Act. The Act is applicable to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Act provides, "public information" consists of "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

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

a governmental body and the governmental body owns the information or has a right of access to it.” *Id.* § 552.002(a). You inform us some of the submitted information, which you have labeled Attachment A, is not subject to the Act because it is purely personal in nature and does not contain information related to the transaction of official business of the system. After reviewing the information at issue, we agree the information labeled Attachment A does not constitute “information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business” by or for the system. *See id.* § 552.021; *see also* 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 information labeled Attachment A is not subject to the Act and the system is not required to release it in response to a request for information.

Next, we must address the system’s procedural 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(e), a governmental body is required to submit to this office within fifteen business days of receiving a request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov’t Code § 552.301(e). You state the system received the request for information on April 12, 2013. Thus, the system’s fifteen-business-day deadline was May 3, 2013. Our office received the system’s request for a ruling on May 6, 2013. There is no date on the post meter-mark on the envelope in which the request for a ruling was sent to this office, and we are otherwise unable to determine the system mailed this information on or before May 3, 2013. *See id.* § 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 system failed to comply with the requirements mandated by subsection 552.301(b).

Pursuant to section 552.302 of the Government Code, a governmental body’s failure to comply with section 552.301 results in the legal presumption the information is public and must be released. Information 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 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Section 552.106 of the Government Code is discretionary in nature; it serves only to protect a governmental body’s interests. As such, the system’s claim under this section is not a compelling reason

to overcome the presumption of openness. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 522 (1989) (discretionary exceptions in general). Accordingly, the system may not withhold any of the remaining information under section 552.106 of the Government Code.

In summary, the information labeled Attachment A is not subject to the Act and the system is not required to release it in response to a request for information. The system must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 492200

Enc. Submitted documents

c: Requestor
(w/o enclosures)