



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 7, 2014

Ms. Sandra Garcia
Assistant General Counsel
Houston Community College
3100 Main Street
Houston, Texas 77002

OR2014-00409

Dear Ms. Garcia:

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# 510217.

Houston Community College (the "college") received a request for the college's "post-bond community/communication engagement plan and all associated calendars of events [and] any in-house plan developed for community outreach programs and events related to the bond[.]" You claim the requested information is excepted from disclosure under section 552.111 of the Government Code. We have considered your claim.

We must address the responsibilities of the college under the Act. Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body that receives a request for information it wishes to withhold under an exception to disclosure is required to submit to this office within fifteen business days of receiving the request (1) general 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. Gov't Code § 552.301(e). As of the date of this letter, you have not submitted a copy or representative sample of the specific information requested. Consequently, we find the college failed to comply with the requirements of section 552.301(e) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal

presumption that the requested 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 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing that the information is made confidential by another source of law or affects third party interests. *See* ORD 630.

Although you raise section 552.111 of the Government Code as an exception to disclosure of the requested information, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 470 at 7 (1987) (governmental body may waive statutory predecessor to section 552.111 deliberative process). Thus, in failing to comply with section 552.301, the college has waived its arguments under section 552.111, and may not withhold the requested information on that basis. As you raise no other exception to disclosure, the college must release the requested 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 510217

c: Requestor