



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 30, 1996

Ms. Melissa M. Ricard
Senior Staff Attorney
Office of the General Counsel
The Texas A&M University System
301 Tarrow, 6th Floor
College Station, Texas 77843-1230

OR96-2473

Dear Ms. Ricard:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 27788.

The Texas A&M University System ("A&M") has received a request for the personnel file of a certain professor. A&M asserts that some of the requested information is exempted from required public disclosure under sections 552.101 and 552.117.¹

First, we address section 552.117 of the Government Code, which exempts from disclosure the home addresses and telephone numbers of all current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. This provision requires A&M to withhold any current or former home address or telephone number of an official, employee, or former employee who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You have submitted a form signed by the professor on February 29, 1988, that indicates that he has elected to withhold his home address and telephone number from public disclosure. Therefore, A&M must not release this

¹The requestor asked for the personnel file in a July 15, 1994 telephone conversation. Your letter to this office requesting a ruling with respect to the oral request and asserting sections 552.101 and 552.117 is dated August 10, 1994. The requestor memorialized her request for the personnel file in a letter dated September 21, 1994. That letter also seeks additional information. You seek a ruling with respect to the additional information in a letter to this office dated October 3, 1994. In this ruling, we address only the availability of the personnel file and the arguments raised in your letter dated August 10, 1994. We will address the availability of the additional information, and the arguments raised in your letter dated October 3, 1994, in a separate ruling.

information. We note that you have included the professor's W-4 Form and Form I-9 with other documents containing his home address. These documents must be withheld in their entirety under section 552.101 in conjunction with federal law. *See* Open Records Decision No. 600 (1992); 8 U.S.C. § 1324a(b).

Next, you assert that portions of the professor's "Annual Work Plan, 1993-94" are confidential under section 552.101 in conjunction with section 51.914 of the Education Code, particularly subsection (1):

In order to protect the actual or potential value, the following information shall be confidential and shall not be subject to disclosure under [chapter 552 of the Government Code], or otherwise:

(1) all information relating to a product, device, or process, the application or use of such a product, device, or process, and all technological and scientific information . . . developed in whole or in part at a state institution of higher education, regardless of whether patentable or capable of being registered under copyright or trademark laws, that have a potential for being sold, traded or licensed for a fee.

This office has stated that this provision "protects information that would permit a person to appropriate research or that directly reveals the substance of proposed research." Open Records Decision No. 557 (1990) at 2. On the other hand, this office has also recognized that information related to research, such as information about licensing, contracting, equity deals, and federal government financing, is not protected if it does not reveal details about the research. Open Records Decision No. 497 (1988) at 6. Furthermore, information about research is not protected if it has been published. *Id.* at 7.

You have marked as confidential information in three categories: "project activities," "manuscripts prepared for publication," and "proposals that have been prepared for extramural funding." The information you have marked appears on its face to reveal the substance of research or proposed research. Thus, we conclude that it must be withheld if it has not been published and if it has the potential for being sold, traded or licensed for a fee.

Finally, you assert that financial information in the personnel file is confidential under section 552.101. "[F]inancial information relating to an individual ordinarily satisfies the first requirement of the test for common-law privacy, but there is a legitimate public interest in essential facts about a financial transaction between an individual and a governmental body." Open Records Decision No. 600 (1992). Thus, there is a legitimate public interest in information about an employee's participation in a group insurance program funded in part by the state, *id.*, but not in a public employee's allocation of salary to a voluntary investment program, Open Records Decision No. 545 (1990).

We have reviewed the financial records submitted by A&M. The direct deposit forms, which relate to a wholly private financial decision, must be withheld in full.

See Open Records Decision No. 600 (1992) at 11-12. The section 403(b)(7) account and ORP Reduction Acknowledgment/Change of Vendor forms, however, are generally public given that A&M contributes to such accounts. See *id.* The professor's home address and telephone number must be withheld under section 552.117. Any beneficiaries designated on the forms are not of legitimate public interest and must be withheld. Similarly, the TIAA CREF forms relating to accounts to which A&M does not contribute must be withheld in full. Forms relating to accounts to which A&M does contribute must be released, with the exception of the professor's home address and information about his beneficiaries.

With the excepted noted above, the requested information must be released. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 27788

Enclosures: Marked documents

cc: Mr. Thomas W. McCulloch
3003 Summit Tower
Eleven Greenway Plaza
Houston, Texas 77046
(w/o enclosures)

Ms. Olive Talley
Staff Writer
The Dallas Morning News
Communications Center
P.O. Box 655237
Dallas, Texas 75266
(w/o enclosures)

