



July 19, 2002

Ms. Carol Longoria  
Public Information Coordinator  
The University of Texas System  
201 West 7<sup>th</sup> Street  
Austin, Texas 78701-2981

OR2002-3967

Dear Ms. Longoria:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 166576.

The University of Texas System (the "system") received a request for the following information:

Resume, replicas of Degrees, a signed contract to become [sic] president of the University of Texas at El Paso, of Dr. Diana Natalicio; Also, names, occupation, resume, salary, sex, dates of employment, photographs, ethnicity, any disciplinary [sic] action, how the person was chosen for the position, of all attorneys for the UT System (must include information about Ms. Esther Hadjar).

You state that most of the responsive information will be released to the requestor. You assert that the system has no responsive information in its possession pertaining to several categories of the request. The Public Information Act does not require a governmental body to disclose information that did not exist at the time the request was received, nor does it require a governmental body to prepare new information in response to a request. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975); see also Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 416 at 5 (1984). You claim that a portion of the requested

information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

The system must withhold the copies of Texas driver's licenses under section 552.130.

You contend that the remaining submitted information is excepted from public disclosure under section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You assert that the information at issue was submitted to the system in conjunction with the completion of an Employment Eligibility Verification form, Form I-9. Form I-9 is governed by title 8, section 1324a of the United States Code, which provides that the form and "any information contained in or appended to such form, may not be used for purposes other than for enforcement of this chapter" and for enforcement of other federal statutes governing crime and criminal investigations. 8 U.S.C. § 1324a(b)(5); *see* 8 C.F.R. § 274a.2(b)(4). Release of the identification forms appended to the Form I-9 in this instance would be "for purposes other than for enforcement" of the referenced federal statutes. Accordingly, we conclude that the identification forms appended to the Form I-9 are excepted from public disclosure under section 552.101 and may only be released in compliance with the federal laws and regulations governing the employment verification system.

In summary, the system must withhold the copies of Texas driver's licenses under section 552.130. The remainder of the requested information is excepted from disclosure under section 552.101 of the Government Code and may only be released in compliance with the federal laws and regulations.

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<sup>1</sup>We 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.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325.

Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Simpson", with a long horizontal flourish extending to the right.

Greg Simpson  
Assistant Attorney General  
Open Records Division

Ref: ID# 166576

Enc. Submitted documents

c: Mr. Michael Hernandez  
8501 Lee Starling  
El Paso, Texas 79907-7616  
(w/o enclosures)