



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 3, 2006

Mr. Scott A. Kelly  
Deputy General Counsel  
The Texas A & M University System  
200 Technology Way, Suite 2079  
College Station, Texas 77845-3424

OR2006-11954A

Dear Mr. Kelly:

This office issued Open Records Letter No.2006-11954 (2006) on October 12, 2006. You informed our office that the Texas Engineering Extension Service ("TEEX") received the request for information on July 28, 2006. Therefore, TEEX was required to submit a copy or representative sample of the requested information and written comments stating the reasons why the exceptions that you raised would allow the information to be withheld by August 18, 2006. However, at the time of the ruling, we had no record of receiving this information, and thus, we concluded that TEEX failed to meet its procedural requirements under section 552.301 of the Government Code and waived its claimed exceptions. You have since submitted to this office the UPS shipping receipt indicating that the TEEX shipped the mail at issue with the UPS on August 18, 2006. Upon review of the submitted information, we conclude that an error was made. When this office determines that an error was made in the decision process under sections 552.301 and 552.306 of the Government Code, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on October 12, 2006. *See generally* Gov't Code 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of the Public Information Act (the "Act")).

You ask whether certain information is subject to required public disclosure under the Act, chapter 552 of the Government Code. Your request was assigned ID# 267560.

TEEX received a request for information related to travel advance disbursements and state credit card status of employees who travel to U.S. territories, as well as copies of policies and guidelines related to state credit card usage and financial contracts or services with BankOne. You claim that the requested information may be excepted from disclosure under sections 552.117(a)(1), 552.136, and 552.137 of the Government Code. We have considered the exceptions you claim.

Initially, we note that some of the submitted information, which you have indicated, is not responsive to the instant request. Information that is not responsive to this request, which we have marked, need not be released. Moreover, we do not address such information in this ruling.

Next, we note that TEEX has not submitted to this office copies or samples of the requested policies and guidelines related to state credit card usage and financial contracts or services with BankOne. Thus, we assume that any information maintained by TEEX that is responsive to these portions of the request has been released to the requestor, to the extent it exists. If not, TEEX must release such information immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000) (concluding that section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under the circumstances).

Now we turn to your arguments for the responsive information. Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. *See* Gov't Code § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is received. *See* Open Records Decision No. 530 at 5 (1989). Therefore, TEEX may only withhold information under section 552.117 on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was received. In this case you inform us that the employees whose records are at issue timely elected confidentiality under section 552.024. Accordingly, upon review, we find that TEEX must only withhold the information we have marked under section 552.117(a)(1) of the Government Code. The employees' post office box numbers may not be withheld under section 552.117(a)(1) and must be released. *See* Open Records Decision No. 622 at 4 (1994) (the purpose of section 552.117 is to protect public employees from being harassed at home); *see also* Open Records Decision No. 658 at 4 (1998) (statutory confidentiality provision must be express and cannot be implied).

You claim that the marked credit card numbers are excepted from public disclosure under section 552.136 of the Government Code, which provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. Upon review, we agree that you must withhold the credit card numbers you have marked under section 552.136 of the Government Code.

You claim that the marked e-mail addresses are excepted from public disclosure under section 552.137 of the Government Code. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). See Gov't Code § 552.137(a)-(c). The e-mail addresses contained in the submitted information are not the type specifically excluded by section 552.137(c). You inform us that the individuals whose e-mail addresses are at issue have not consented to release of their e-mail addresses. Accordingly, TEEX must withhold the e-mail addresses you have marked under section 552.137 of the Government Code.

In summary, TEEX must only withhold the information we have marked under section 552.117(a)(1) of the Government Code. TEEX must withhold the credit card numbers you have marked under section 552.136 of the Government Code. Additionally, TEEX must withhold the e-mail addresses you have marked under section 552.137 of the Government Code. As you do not raise any other exceptions against disclosure, the remaining information must be released.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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. 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,



Jaclyn N. Thompson  
Assistant Attorney General  
Open Records Division

JNT/krl

Ref: ID# 267560

Enc. Submitted documents

c: Ms. Lori Ellen  
23 Wedgewood Boulevard  
Conroe, Texas 77304  
(w/o enclosures)