



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 18, 2009

Ms. Neera Chatterjee
Public Information Coordinator
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2009-06747

Dear Ms. Chatterjee:

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# 343368 (OGC #117791).

The University of Texas Medical Branch at Galveston ("UTMB") received a request for information relating to (1) payment to and contracts with the Studer Group; (2) remodeling of the president's office since a specified date; (3) employment and payment of leadership coaches since the same date; (4) VIP patients; and (5) travel reimbursement and expense account charges for certain named UTMB personnel since the same date. You state that UTMB has no responsive information relating to VIP patients.¹ You also state that some of the requested information either has been or will be released. Although you take no position on the public availability of the submitted information, you believe that it may implicate the proprietary interests of the Edmondson Consulting Group ("Edmondson), the Mastery Group, Inc. ("Mastery"), and the Studer Group ("Studer"). You notified those parties of this request for information and of their right to submit arguments to this office as to why the submitted

¹We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

information should not be released.² You also notified a UTMB official whose interests may be implicated by the submitted information.³ We have reviewed the submitted information.⁴

We first note that the submitted information includes a bank account number. The requestor states that she does not seek access to that information. Thus, the bank account number that we have marked is not responsive to this request. This decision does not address the public availability of the marked bank account number, and UTMB need not release that information in response to this request.

We next note that an interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no correspondence from Edmondson, Mastery, or Studer. Therefore, because none of those parties has demonstrated that any of the responsive information is proprietary for the purposes of the Act, UTMB may not withhold any of the information on that basis. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999). Likewise, we have received no correspondence from the UTMB official who was notified. Thus, as there has been no demonstration that any of the responsive information is excepted from disclosure, all of the information must be released.

We note, however, that some of the responsive information appears to be protected by copyright. A governmental body must allow inspection of copyrighted information unless an exception to disclosure applies to the information. *See* Attorney General Opinion JM-672 (1987). An officer for public information also must comply with copyright law, however, and is not required to furnish copies of copyrighted information. *Id.* A member of the public who wishes to make copies of copyrighted information must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 at 8-9 (1990).

²*See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

³*See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

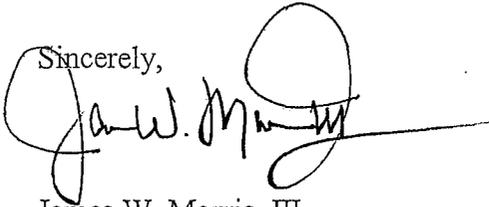
⁴This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes UTMB to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

In summary, all of the responsive information must be released to the requestor. Any information that is protected by copyright must be released in accordance with copyright law.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 343368

Enc: Submitted documents

c: Requestor
(w/o enclosures)

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