



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 15, 2009

Ms. Neera Chatterjee
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2009-08221

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# 346032.

The University of Texas Medical Branch at Galveston (the "university") received a request for records related to a named individual's involvement with a specified committee. You claim that the submitted information is not subject to the Act or, alternatively, is excepted from disclosure under sections 552.101, 552.111, 552.117, and 552.137 of the Government Code. You also explain that the submitted information may contain third parties' proprietary information subject to exception under the Act. Accordingly, you have notified the National Academy of Sciences (the "academy") and the United States Department of Homeland Security ("DHS") of this request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code* § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered your arguments and reviewed the submitted representative sample of information.¹ We have also considered comments submitted by the academy, DHS, and the

¹We 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.

requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.021 of the Government Code provides for public access to "public information," *see id.* § 552.021, which is defined by section 552.002 of the Government Code as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." *Id.* § 552.002(a). Thus, information that is collected, assembled, or maintained by a third party may be subject to disclosure under the Act if a governmental body owns or has a right of access to the information. *See* Open Records Decision No. 462 (1987); *cf.* Open Records Decision No. 499 (1988).

The submitted information consists of communications between a university employee and the Institute of Medicine (the "IOM"), a private organization. You indicate that the university is not a member of the IOM and explain that the involved employee's membership in the IOM is "as a citizen and a member of his profession," and "not as a representative or employee of [the university]."² You inform this office that while the university has access to all e-mails created on university computers, the e-mails at issue are the employee's personal e-mails. You explain that some of the submitted information consists of documents that were mailed to the employee in his individual capacity at his campus address. You state that the information at issue consists of personal correspondence by the university's employee that was not collected, assembled, or maintained in connection with the transaction of any official business of the university. After reviewing your arguments and the information at issue, we agree that this information does not constitute "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the university. *See* Gov't Code § 552.021; *see also* ORD 635 (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving de minimis use of state resources). Therefore, we conclude that the submitted information is not subject to the Act and need not be released in response to this request.³

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.

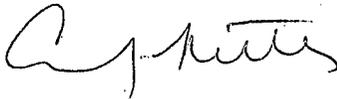
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and

²The academy states that the employee's IOM membership is "based on his individual expertise and accomplishments," and the records at issue were not collected, assembled, or maintained "in connection with any official business of the [u]niversity."

³As this ruling is dispositive, we need not address the exceptions against disclosure raised by you, DHS, and the academy.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 346032

Enc: Submitted documents

c: Requestor
(w/o enclosures)

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