



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2011

Mr. W. Montgomery Meitler
Assistant Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

OR2011-01112

Dear Mr. Meitler:

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# 406740 (TEA PIR# 14225).

The Texas Education Agency (the "agency") received a request for a specified charter school application. You state you have released most of the responsive information to the requestor. You claim a portion the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information other statutes make confidential. Federal tax returns and tax return information generally are confidential under section 6103 of title 26 of the United States Code. *See* 26 U.S.C. § 6103(a). However, section 6104 of title 26 of the United States Code provides in relevant part:

(d) Public inspection of certain annual returns[.]

(1) In general. In the case of an organization described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a) or an organization exempt from taxation under section 527(a)[:]

(A) a copy of

(i) the annual return filed under section 6033 . . . by such organization,

...

shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and . . .

(B) upon request of an individual made at such principal office . . . a copy of such annual return . . . shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

...

(2) 3-year limitation on inspection of returns.- Paragraph (1) shall apply to an annual return filed under section . . . 6033 only during the 3-year period beginning on the last day prescribed for filing such a return (determined with regard to any extension of time for filing).

Id. § 6104(d)(1)-(2); *see* 26 C.F.R. § 301.6104(d)-1(a). Thus, a section 501 tax-exempt organization must generally make its annual information returns available for public inspection for a period of three years from the last day prescribed for filing. The public disclosure requirement of section 6104(d) for a section 501(c) or (d) organization also applies to certain other specified tax filings in addition to the annual return. *See* 26 U.S.C. § 6104(d)(1)(A).

However, the law includes an exception to this disclosure requirement for information about contributors to the organization. Section 6104(d)(3) reads as follows:

(3) Exceptions from disclosure requirement.

(A) Nondisclosure of contributors, etc. - In the case of an organization which is not a private foundation (within the meaning of section 509(a)) or a political organization exempt from taxation under section 527, paragraph (1) shall not require the disclosure of the name or address of any contributor to the organization

Id. § 1604(d). You state the entity at issue in the submitted 990 Form is an organization subject to section 501(c). You further state, and the information reveals, the date of filing for the submitted 990 Form was less than three years prior to the date the agency received the request for information. Therefore, the submitted Form 990 is generally subject to public disclosure pursuant to section 6104 of title 26 of the United States Code. However, the name and address of the contributor listed in the submitted Form 990, which you have marked, must be withheld from disclosure under section 552.101 of the Government Code in conjunction with sections 6103(a) and 6104(d)(3) of title 26 of the United States Code. As you raise no further exceptions to disclosure, the remaining information must be released.

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, toll free at (888) 672-6787.

Sincerely,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 406740

Enc. Submitted documents

c: Requestor
(w/o enclosures)