



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 14, 2012

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

OR2012-14648

Dear Ms. Angadicheril:

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# 465724 (OGC# 144858).

The University of Texas Southwestern Medical Center (the "university") received a request for the background investigation and a specified report pertaining to the requestor's application for a specified position. You claim portions of the submitted information are not subject to the Act. You also claim portions of the submitted information are excepted from disclosure under section 552.137 of the Government Code.<sup>1</sup> In addition, you inform us that release of the submitted information may implicate the proprietary interests of SkillSurvey. Accordingly, you notified SkillSurvey of the request for information and of the company's right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Act in certain circumstances). We have considered your arguments and reviewed the submitted information.

Initially, we note you have not submitted the requested background investigation. To the extent the university maintains information responsive to this part of the request that existed on the date the request was received, we assume the university has released it. If the

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<sup>1</sup>Although you do not raise section 552.137 of the Government Code in your brief, we understand you to raise this exception based on your markings.

university has not released any such information, it must do so at this time. Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we address your argument that the Internet Protocol ("IP") addresses in the submitted information do not constitute public information for purposes of the Act. In Open Records Decision No. 581 (1990), this office determined certain computer information that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property, such as source codes, documentation information, and other computer programming, is not the kind of information made public under section 552.021 of the Government Code. *See* ORD 581 at 6 (construing predecessor statute). Based on the reasoning in this decision and our review of the information at issue, we determine the submitted IP addresses do not constitute public information under section 552.002 of the Government Code. Accordingly, this information is not subject to the Act and need not be released.

We next note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, SkillSurvey has not submitted comments to this office explaining why the submitted information should not be released. Therefore, we have no basis to conclude that SkillSurvey has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the university may not withhold any portion of the submitted information based upon the proprietary interests of SkillSurvey.

Section 552.137 of the Government Code 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). Gov't Code § 552.137(a)-(c). We note section 552.137 is not applicable to an institutional e-mail address. You have marked most of the e-mail addresses contained in the submitted information under section 552.137. You inform us that the individuals whose e-mail addresses are at issue have not affirmatively consented to their release. Upon review, we conclude the university must withhold the e-mail addresses we have marked under section 552.137 of the Government Code. We note, however, the remaining e-mail addresses you have marked are institutional email addresses. Thus, the university may not withhold these e-mail addresses under section 552.137. As no further exceptions to disclosure are raised for the remaining information, the university must release it.

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](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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 465724

Enc. Submitted documents

c: Requestor  
(w/o enclosures)