



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 13, 2013

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

OR2013-21754

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# 508572 (UT OGC# 151843).

The University of Texas System (the "university") received a request for any correspondence, proposals, bids, quotes, invoices, or documents evidencing or showing any payments made between the university and a named attorney or his law firm (collectively "the attorney"). Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of the attorney. Accordingly, you state and provide documentation showing you notified the attorney of the request for information and of his 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 the Act in certain circumstances).* We have reviewed the submitted information.

Initially, we note you have not submitted any invoices or documents evidencing or showing any payments made between the university and the attorney. Therefore, to the extent information responsive to this aspect of the request exists, we assume you have released it to the requestor. *See 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). If you have not released any such information, you must do so at this time. See Gov't Code §§ 552.301(a), .302.

Next, you acknowledge the university has not complied with the time periods prescribed by section 552.301 of the Government Code in requesting an open records ruling from our office. Gov't Code § 552.301. Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. See *id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); see also Open Records Decision No. 630 (1994). The presumption that information is public under section 552.302 can be overcome by demonstrating that the information is confidential by law or third-party interests are at stake. See Open Records Decision Nos. 630 at 3, 325 at 2 (1982). Because third-party interests can provide a compelling reason for non-disclosure, we will consider whether the submitted information may be withheld on behalf of the attorney.

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, we have not received comments from the attorney explaining why any of his requested information should not be released. Therefore, we have no basis to conclude the attorney 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 on the basis of any proprietary interests the attorney may have in the information. As no exceptions to disclosure were raised, the submitted 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.texasattorneygeneral.gov/open/>

[ori_ruling_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/dls

Ref: ID# 508572

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Kirk D. Willis
The Willis Law Group
10440 North Central Expressway, Suite 520
Dallas, Texas 75231
(w/o enclosures)

