



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 29, 2014

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

OR2014-13114

Dear Ms. Tynan:

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# 530857 (OGC Nos. 156092, 156104, and 156123).

The University of Texas at Austin (the "university") received three requests from two requestors for copies of specified invoices and information pertaining to a named university employee. You state the university has destroyed a portion of the requested information in accordance with the university's record retention policy.<sup>1</sup> You claim 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 representative sample of information.<sup>2</sup> We have also received and considered comments from an attorney

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when the request for information was received or to prepare new information in response to a request. *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), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

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

You state the university released some of the submitted information in response to a prior request for information. We note section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See id.* § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the university may not now withhold any previously released information unless its release is expressly prohibited by law or the information is confidential under law. Because section 552.101 of the Government Code can make information confidential, we will address your argument under section 552.101 for 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 exception encompasses information other statutes make confidential, such as section 51.971 of the Education Code, which provides, in part:

(e) Information is excepted from disclosure under [the Act] if it is collected or produced:

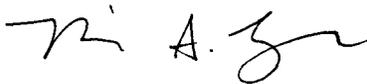
(1) in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation[.]

Educ. Code § 51.971(e)(1). Section 51.971 defines a compliance program as "a process to assess and ensure compliance by the officers and employees of an institution of higher education with applicable laws, rules, regulations, and policies." *Id.* § 51.971(a)(1). We note the university is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). You assert the submitted information pertains to an ongoing compliance investigation authorized by the university's Internal Audit Office. You state the investigation is related to ethical questions and standards of conduct relating to employees of the university. Based on your representations, we find the information at issue relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a)(1). Accordingly, the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.971 of the Education Code.

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/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/bhf

Ref: ID# 530857

Enc. Submitted documents

c: Requestors  
(w/o enclosures)