



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 10, 2016

Mr. R. Brooks Moore
Managing General Counsel
The Texas A&M University System
301 Tarrow Street, Sixth Floor
College Station, Texas 77840-7896

OR2016-10558

Dear Mr. Moore:

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# 609593 (PIR# W000419-021716).

The Texas A&M University System (the "system") received a request for specified contractual agreements awarded by the Texas A&M Area 41 Institute during a specified time period. You state you will provide some information to the requestor. You claim some of 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.¹

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. Section 552.101 encompasses information protected by other statutes, such as section 51.914 of the Education Code. Section 51.914(a)(1) provides:

¹We 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 that those records contain substantially different types of information than that submitted to this office.

In order to protect the actual or potential value, the following information is confidential and is not subject to disclosure under [the Act], or otherwise:

(1) all information relating to a product, device, or process, the application or use of such a product, device, or process, and all technological and scientific information (including computer programs) developed in whole or in part at a state institution of higher education, regardless of whether patentable or capable of being registered under copyright or trademark laws, that have a potential for being sold, traded, or licensed for a fee[.]

Educ. Code § 51.914(a)(1). As noted in Open Records Decision No. 651 (1997), the legislature is silent as to how this office or a court is to determine whether particular scientific information has “a potential for being sold, traded, or licensed for a fee.” ORD 651 at 9-10. Furthermore, whether particular scientific information has such a potential is a question of fact that this office is unable to resolve in the opinion process. *See id.* at 10. Thus, this office has stated that in considering whether requested information has “a potential for being sold, traded, or licensed for a fee,” we will rely on a governmental body’s assertion that the information has this potential. *See id.* However, a governmental body’s determination that information has a potential for being sold, traded, or licensed for a fee is subject to judicial review. *See id.* We note section 51.914 is not applicable to working titles of experiments or other information that does not reveal the details of the research. *See* Open Records Decision Nos. 557 at 3 (1990), 497 at 6-7 (1988).

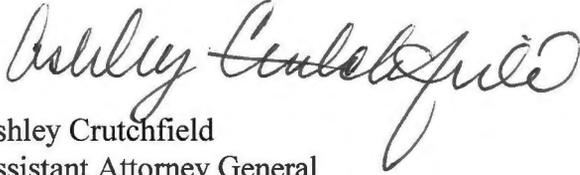
You seek to withhold portions of the submitted information under section 552.101 of the Government Code in conjunction with section 51.914(a)(1) of the Education Code. You state this information consists of “details of specific research projects.” You explain the information at issue “contains information about specific research products developed in whole or in part by [system] institutions.” You assert the information at issue has the potential for being sold, traded, or licensed for a fee and is, therefore, confidential pursuant to section 51.914(a)(1). Based on your representations and our review, we find the information you marked is confidential under section 51.914(a)(1) of the Education Code and must be withheld under section 552.101 of the Government Code. As you raise no further exceptions to disclosure, the system must release the remaining information.

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](#), 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,

A handwritten signature in black ink, appearing to read "Ashley Crutchfield". The signature is written in a cursive style with a large, sweeping flourish at the end.

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/dls

Ref: ID# 609593

Enc. Submitted documents

c: Requestor
(w/o enclosures)