



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 24, 2017

Ms. Ana Vieira Ayala  
Assistant General Counsel & Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West 7<sup>th</sup> Street, Suite 600  
Austin, Texas 78701-2901

OR2017-01560

Dear Ms. Ayala:

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# 642959 (OGC# 172529).

The University of Texas Health Science Center at Houston (the "university") received a request for information related to, referencing, or listing certain information pertaining to incentives. You claim the submitted information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note you have marked some information as not responsive. This ruling does not address the public availability of the non-responsive information and the university need not release it to the requestor.

Next, you state some of the responsive information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-01510

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<sup>1</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.

(2017). In that ruling, we determined the university (1) may withhold some of the information at issue under section 552.111 of the Government Code and (2) must release the remaining responsive information at issue pursuant to section 552.022(a)(5) of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the university may rely on Open Records Letter No. 2017-01510 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, we note the remaining responsive information is subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part, the following:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body; [and]

...

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate[.]

Gov't Code § 552.022(a)(3), (5). The remaining responsive information consists of information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by the university subject to subsection 552.022(a)(3), and information used to estimate the need for or expenditure of public funds or taxes by the university subject to subsection 552.022(a)(5). The university must release the remaining responsive information unless it is made confidential under the Act or other law. *See id.* § 552.022(a)(3), (5). The university seeks to withhold the remaining responsive information under section 552.111 of the Government Code. However, section 552.111 is discretionary in nature and does not make information confidential under the Act. *See* Open Records Decision No. 470 at 7 (1987) (deliberative process privilege under statutory predecessor to Gov't Code § 552.111 subject to waiver); *see also* Open Records Decision Nos. 665 at 2 n.5

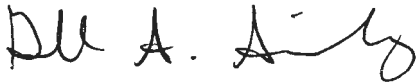
(2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the university may not withhold any of the remaining responsive information under section 552.111. As no other exceptions to disclosure have been raised, the university must release the remaining responsive information pursuant to subsections 552.022(a)(3) and (a)(5) of the Government Code.

In summary, the university may rely on Open Records Letter No. 2017-01510 as a previous determination and withhold or release the identical information in accordance with that ruling. The university must release the remaining responsive information pursuant to subsections 552.022(a)(3) and (a)(5) of the Government 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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/som

Ref: ID# 642959

Enc. Submitted documents

c: Requestor  
(w/o enclosures)