



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 17, 2017

Ms. Cynthia Tynan  
Senior Attorney and Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street, Suite 600  
Austin, Texas 78701-2901

OR2017-05542

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# 649431 (OGC# 173212).

The University of Texas at Austin (the "university") received a request for five categories of information, including any donations from certain identified parties. You state you have released some information. You claim some of the submitted information is excepted from disclosure under section 552.1235 of the Government Code. We have considered the exception you claim and reviewed the submitted information.


We first note, and you acknowledge, the university did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (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). The university claims section 552.1235 of the Government Code for the submitted information. Because section 552.1235 can provide a compelling reason to overcome the presumption of openness, we will address your argument under this section for the submitted information.

Section 552.1235 of the Government Code excepts from disclosure “[t]he name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education[.]” Gov’t Code § 552.1235(a). For purposes of this exception, “institution of higher education” is defined by section 61.003 of the Education Code. *Id.* § 552.1235(c). Section 61.003 defines an “institution of higher education” as meaning “any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined in this section.” Educ. Code § 61.003(8). Because section 552.1235 does not provide a definition of “person,” we look to the definition provided in the Code Construction Act. *See* Gov’t Code § 311.005. “Person” includes a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity. *Id.* § 311.005(2). The university states the marked information identifies donors for purposes of section 552.1235. Upon review of the submitted information, we agree that the university must withhold information identifying a donor who made a gift, grant, or donation of money or property to the university pursuant to section 552.1235 of the Government Code. Although the amount or value of an individual gift, grant, or donation is not excepted from disclosure by section 552.1235, in this case there is no way for the university to release some of the requested dollar amounts without disclosing the identity of the donor. Thus, in this instance, we conclude the university must also withhold information that would tend to disclose the identity of a donor.

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,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KSM/sb

Ref: ID# 649431

Enc. Submitted documents

c: Requestor  
(w/o enclosures)