



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 22, 2019

Ms. Ana Vieira Ayala
Assistant General Counsel, Legal Expert & Public Information Coordinator
University of Texas System
210 West Seventh Street
Austin, Texas 78701-2902

OR2019-08052

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# 758990 (ORR# 186690).

The University of Texas System (the "system") received a request for information pertaining to candidates for the position of president of the University of Texas at El Paso. The system states it does not have some of the requested information.¹ The system claims the submitted information is excepted from disclosure under section 552.123 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.123 of the Government Code excepts from required public disclosure the following:

The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, . . . except that the governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

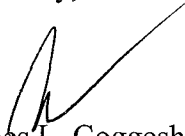
¹The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *See generally Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed).

Gov't Code § 552.123. Section 552.123 permits the withholding of any identifying information about the candidates, not just their names. Open Records Decision No. 540 (1990) (construing statutory predecessor to section 552.123). Examples of information identifying individuals might include, but are not limited to, resumes, professional qualifications, membership in professional organizations, dates of birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant. *Id.* at 4. In addition, the exception protects the identities of all persons being considered for the position of university chief executive officer, whether they are nominated or apply on their own initiative. *Id.* at 5. The system asserts the submitted information identifies candidates for the position of president of the University of Texas at El Paso. Upon review, we conclude the system must withhold the submitted information under section 552.123 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 758990

Enc. Submitted documents

c: Requestor
(w/o enclosures)