



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 6, 2019

Mr. Juan A. Roque
Assistant District Attorney
Bexar County
101 West Nueva, 7th Floor
San Antonio, Texas 78205

OR2019-25010

Dear Mr. Roque:

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# 784697 (DA File No. 7455).

Bexar County (the "county") received a request for specified information related to a grant application.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state release of the submitted information may implicate the interests of Texas A&M University (the "university"). Accordingly, you state, the county notified the university of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released.² *See* Gov't Code § 552.304 (interested party may submit comments stating

¹ We note the county sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² As of the date of this letter, this office has not received comments from the university explaining why any of the submitted information should not be released.

why information should or should not be released). We have considered the exception you claim and reviewed the submitted representative sample of information.³

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses section 51.914(b) of the Education Code, which provides, in pertinent part, the following:

...

(b) Information maintained by or for an institution of higher education that would reveal the institution’s plans or negotiations for commercialization or a proposed research agreement, contract, or grant, or that consists of unpublished research or data that may be commercialized, is not subject to [the Act], unless the information has been published, is patented, or is otherwise subject to an executed license, sponsored research agreement, or research contract or grant. In this subsection, “institution of higher education” has the meaning assigned by Section 61.003 [of the Education Code].

Educ. Code § 51.914(b).

You state the submitted information relates to a proposed research agreement between the county and the university. You state the university is an institution of higher education, and the information at issue is maintained for the university. *See* Educ. Code § 61.003(8). Additionally, you state the proposed research agreement contract has not been executed. Based on your representations and our review, we find you have demonstrated the applicability of section 51.914(b) of the Education Code to the submitted information. Accordingly, the county must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.914 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

³ 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.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Buchanan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Emily Buchanan
Assistant Attorney General
Open Records Division

EBO/gw

Ref: ID# 784697

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)