



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 2, 2019

Mr. Timothy Stewart
Deputy General Counsel
Texas Southern University
3100 Cleburne Avenue
Houston, Texas 77004

OR2019-33659

Dear Mr. Stewart:

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# 799313.

Texas Southern University (the "university") received a request for two specified agreements. The university claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception the university claims and reviewed the submitted representative sample of information.¹

We must address the university's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). The university received the instant request for information on September 10, 2019. The university does not inform us it was closed for any business days between September 10, 2019, and October 1, 2019. This office does not count the date the

¹ We assume that 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.

request was received or holidays for the purpose of calculating a governmental body's deadline under the Act. Therefore, the university was required to provide the information required by section 552.301(e) by October 1, 2019. The university provided most of the information required by section 552.301(e) in an envelope postmarked September 23, 2019. However, the envelope in which the university provided a copy of the written request for information was postmarked November 20, 2019. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Consequently, we find the university failed to comply with the requirements of section 552.301 in requesting this decision from our office.

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 552.104 of the Government Code for the submitted information. However, we find the university has failed to establish a compelling reason to address its claimed exception. Consequently, the university must release the submitted 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 <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 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,



Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/rm

Ref: ID# 799313

Enc. Submitted documents

c: Requestor
(w/o enclosures)