



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 18, 2020

Ms. Jennifer Burnett  
Office of the General Counsel  
University of Texas System  
210 West Seventh Street  
Austin, Texas 78701-2902

OR2020-08484

Dear Ms. Burnett:

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# 817260 (ORR# 194204).

The University of Texas Southwestern Medical Center at Dallas (the "university") received a request for information pertaining to a named employee. The university states it has released some of the requested information, but claims the submitted information is either not subject to the Act or excepted from disclosure under section 552.101 of the Government Code. The university states, and provides documentation showing, it notified Ferring Research Institute, Inc. and Laboratory for Advanced Medicine of the university's receipt of the request for information and of their right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the submitted arguments and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

The university asserts the submitted employee identification number is not subject to the Act. In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the

maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. The university has previously informed our office these computer-generated numbers provide administrative access to the university's computer system, but are not used as computer log-on information. Based on this representation and our review, we agree the submitted university employee identification number does not constitute public information under section 552.002 of the Government Code. Accordingly, the employee identification number is not subject to the Act and the university is not required to release it. The university also asserts some of the submitted contracts are not public information because the employee at issue entered those contracts in his individual capacity. However, upon review we find the university maintains these agreements in connection with the transaction of its official business. Accordingly, we conclude the remaining information is subject to the Act. Therefore, we will address the university's arguments to withhold it under the Act.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, none of the interested third parties has submitted to this office any reasons explaining why the requested information should not be released. Accordingly, we have no basis for concluding the submitted information constitutes proprietary information of these third parties, and the university may not withhold any portion of it on that basis. *See* Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in the *Industrial Foundation* decision. *Id.* at 683. This office has found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). However, this office has also found the public has a legitimate interest in information relating to employees of governmental bodies and their employment qualifications and job performance. *See* Open Records Decision Nos. 470 at 4 (1987) (public has legitimate interest in job qualifications and performance of public employees), 405 at 2-3 (1983) (public has interest in manner in which public employee performs job). Upon review, we agree the information that the university has marked under common-law privacy satisfies

the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the university must withhold the information it has marked under section 552.101 of the Government Code in conjunction with common-law privacy. The university must release the remaining responsive 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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/jxd

Ref: ID# 817260

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)