



OFFICE OF THE VICE PRESIDENT AND CHIEF FINANCIAL OFFICER  
THE UNIVERSITY OF TEXAS AT AUSTIN

P.O. Box 8179 • Austin, Texas 78713-8179 • 512-471-1422 • FAX 512-471-7742

April 8, 2016

VIA EMAIL

Mr. Edward Hammond  
eh@pricklyresearch.com

RE: Open Records Request No. 143295

Dear Mr. Hammond:

This letter and the enclosed records are provided in final response to your open records request received via e-mail on December 10, 2015. You requested that The University of Texas at Austin provide you with the following information:

“1. From 1 June 2014 to the present, all electronic mail, including attachments, sent by Matt Vaughn or received by Matt Vaughn from:

Any employee of the Global Crop Diversity Trust  
Any employee of the Global Plant Council  
Any employee of Bioversity International  
Kevin Pixley (CIMMYT)  
Peter Bretting (USDA ARS)  
Susan McCouch (Cornell)  
Ruaraidh Sackville Hamilton (IRRI)  
Emily Marden (UBC)  
Nils Stein (IPK)  
Rajeev Varshney (ICRISAT)  
Sarah Ayling (Genome Analysis Centre, UK)

2. To the extent not contained in your reply to Item #1 of this request, all electronic mail, including attachments, sent by Matt Vaughn or received by Matt Vaughn, matching the word search ‘DivSeek’ or the phrase ‘Diversity Seek’”.

On January 5, 2016, The University of Texas System, on behalf of The University, requested a ruling from the Office of the Attorney General as to the confidentiality of the responsive information. On March 24, 2016, Office of the Attorney General issued its ruling, which is attached hereto. The Attorney General’s ruling concludes that The University must release the responsive information with email addresses redacted in accordance with Gov’t Code § 552.137. We have prepared the information for release in accordance with the letter ruling, and it is attached hereto.

With this letter, our office will close its file regarding your request. You may contact me directly at (512) 471-3567 if you require any further assistance. Thank you.

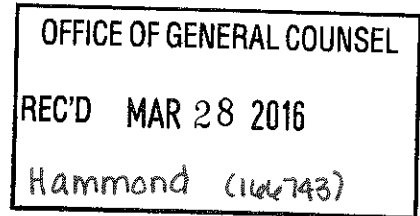
Sincerely,

A handwritten signature in blue ink, appearing to read "Bob Davis", with a long, sweeping flourish extending to the right.

Bob Davis  
Open Records Coordinator



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS



March 24, 2016

Ms. Cynthia Tynan  
Attorney & Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2016-06665

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# 601427 (OGC #166743).

The University of Texas at Austin (the "university") received a request for all e-mails between a named university employee and specified entities during a specified time period and all e-mails sent to or received by the named employee involving the term "DivSeek" or the phrase "Diversity Seek" during a specified time period. You claim the submitted information is not subject to the Act. We have considered your argument and reviewed the submitted representative sample of information.<sup>1</sup> We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

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<sup>1</sup>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.

You argue the submitted information is not subject to the Act. The Act is applicable only to “public information.” *Id.* § 552.021. Section 552.002(a) of the Government Code defines “public information” as

information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

*Id.* § 552.002(a). Section 552.002(a-1) also provides the following:

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer’s or employee’s official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

*Id.* § 552.002(a-1). Thus, virtually all of the information in a governmental body’s physical possession constitutes public information and, thus, is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You inform us the requested e-mails consist of correspondence of the named university employee and relates to the employee’s outside appointment to a committee. Further, you assert the requested e-mails do not relate, in any way, to the official business of the university. However, you also inform us the employee works for the university’s Texas Advanced Computing Center (“TACC”). You further state TACC leads, along with other universities and laboratories, the iPlant Collaborative (“iPlant”), a virtual organization funded by the United States National Science Foundation to create cyber infrastructure for the plant

sciences. You also state iPlant is a partner in an organization called Diversity Seek (“DivSeek”). Although you state these e-mails relate to the employee’s outside appointment to a committee, you do not explain what this committee is or how it relates to the university’s or TACC’s relationship with iPlant or DivSeek. Additionally, although you assert the requested e-mails do not relate to the official business of the university, we note iPlant is listed as an official project of the university’s TACC on TACC’s website and the employee at issue is listed as the TACC contact for iPlant. Upon review, we conclude the university has failed to establish the requested e-mails do not consist of public information. Furthermore, in light of the university’s duty to make a good faith effort to relate a request for information to information held by the governmental body, and the university’s submission of representative samples of the requested information for our review pursuant to section 552.301(e) of the Government Code, we conclude the university must release the requested information unless it falls within an exception to public disclosure under the Act. *See Gov’t Code* §§ 552.006, .021, .301, .302; *Open Records Decision No. 561 at 8 (1990).*

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).<sup>2</sup> *See Gov’t Code* § 552.137(a)-(c). Section 552.137 does not apply to an institutional e-mail address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, an e-mail address of a vendor who seeks to contract with a governmental body, an e-mail address maintained by a governmental entity for one of its officials or employees, or an e-mail address provided to a governmental body on a letterhead. *See id.* § 552.137(c). Upon review, we find the university must withhold the personal e-mail addresses in the submitted information under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure or subsection (c) applies. The university must release the remaining 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 [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

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long, sweeping horizontal line extending to the right.

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/bw

Ref: ID# 601427

Enc. Submitted documents

c: Requestor  
(w/o enclosures)