



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 5, 2004

Ms. Lona Chastain  
Open Records Coordinator  
Office of General Counsel  
Texas Workforce Commission  
101 East 15<sup>th</sup> Street  
Austin, Texas 78778-0001

OR2004-8442

Dear Ms Chastain:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 210391.

The Texas Workforce Commission (the "commission") received a request for specific software and HTML codes for the commission's job search program and webpage, the Work-in-Texas program. You contend that the requested information is not public information subject to the Public Information Act (the "Act"). In the alternative, you claim that the requested information is excepted from disclosure under section 552.139 of the Government Code. We have considered your arguments and reviewed the submitted sample of information.<sup>1</sup>

You state that the requested information consists of computer source code and documentation standards regarding the storage, manipulation, and security of other information in the Work-in-Texas program. In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation

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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.

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. You inform us that the requested source code reveals the design of the program, contains the operational mechanics of the program and includes the defenses of the program. You further state that the source code is the blueprint or map to the security system for the Work-In-Texas computer programs, and that knowledge of this map or blueprint would render the program vulnerable to attack on the source code level. Based on the reasoning in Open Records Decision No. 581 and our review of the information, we determine that the requested information does not constitute public information under section 552.002 of the Government Code. Accordingly, the requested information is not subject to the Act and need not be released. As our ruling is dispositive, we need not reach your claim under section 552.139 for the requested information.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Lauren E. Kleine  
Assistant Attorney General  
Open Records Division

LEK/jev

Ref: ID# 210391

Enc. Submitted documents

c: Mr. Larry D. Lyons  
Relyon, LLC  
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(w/o enclosures)