



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 22, 2010

Ms. Ruth H. Soucy
Deputy General Counsel for Open Records
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2010-01048

Dear Ms. Soucy:

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# 367948 (Comptroller ID no. 6004152792).

The Texas Comptroller of Public Accounts (the "comptroller") received a request for information pertaining to settlements over \$10,000 paid out of a specified account from 2005 to the present. You state that some of the information has been released to the requestor. However, you claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.110 of the Government Code. You state you have notified the Texas Department of Family and Protective Services, the Texas Department of Assistive and Rehabilitative Services, and the Texas Youth Commission, which are all governmental bodies to whom the requested information relates, about the instant request for information in accordance with section 552.304 of the Government Code. *See Gov't Code § 552.304* (any person may submit written comments stating why information at issue in request for Attorney General ruling should or should not be released). We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that as of the date of this letter, we have not received any arguments from the governmental entities you notified pursuant to section 552.304. Thus, none of the submitted information may be withheld on behalf of the notified governmental entities. *See Gov't Code § 552.304*. Furthermore, we note that although you assert the submitted information may be confidential under section 552.110 of the Government Code, that exception is designed to protect the interests of third parties, not the interests of governmental bodies. *See Gov't Code § 552.110*. Accordingly, even if the Texas

Department of Family and Protective Services, the Texas Department of Assistive and Rehabilitative Services, and the Texas Youth Commission had presented arguments under section 552.110, the exception would not be applicable in this instance.

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. This section encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* At 683. Additionally, the identifying information of sexual harassment victims is considered private. See *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). In this instance, the submitted documents contain information that is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the comptroller must withhold this information, which we have marked, under section 552.101 in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the remaining information must be released.

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.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James McGuire
Assistant Attorney General
Open Records Division

JM/rl

Ref: ID# 367948

Enc. Submitted documents

c: Requestor
(w/o enclosures)