



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 23, 2011

Ms. Margo Kaiser  
Staff Attorney  
Texas Workforce Commission  
101 East 15th Street  
Austin, Texas 78778

OR2011-13770

Dear Ms. Kaiser:

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# 430842 (TWC Tracking No. 110707-009).

The Texas Workforce Commission (the "commission") received a request for all information pertaining to complaint file numbers 2110096-HU and 2110098-HU. You state the commission will provide some of the requested information to the requestor with certain information redacted pursuant to section 552.147 of the Government Code and Open Records Decision No. 684 (2009).<sup>1</sup> You claim the remaining requested information is excepted from disclosure under sections 552.101, 552.102, and 552.116 of the Government

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b). The previous determination issued in Open Records Decision No. 684 authorizes all governmental bodies to withhold ten categories of information, without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended sections 552.130 and 552.136 of the Government Code to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) and section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 602, §§ 22 (to be codified at Gov't Code § 552.130(c)), 27 (to be codified at Gov't Code § 552.136(c)). If a governmental body redacts such information, it must notify the requestor in accordance with sections 552.130(e) and 552.136(e). *See* Act of May 30, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 602, §§ 22 (to be codified at Gov't Code § 552.130(d), (e)), 27 (to be codified at Gov't Code § 552.136(d), (e)). Thus, the statutory amendments to sections 552.130 and 552.136 of the Government Code superceded Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130, and information subject to section 552.136(b) in accordance with section 552.136, not Open Records Decision No. 684.

Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.116 of the Government Code provides as follows:

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, a school district, a hospital district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from [required public disclosure]. If information in an audit working paper is also maintained in another record, that other record is not excepted from [required public disclosure] by this section.

(b) In this section:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, the bylaws adopted by or other action of the governing board of a hospital district, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) intra-agency and interagency communications; and

(B) drafts of the audit report or portions of those drafts.

Gov't Code § 552.116(b)(2); Act of May 29, 2011, 82<sup>nd</sup> Leg., R.S., H.B. 2947, §§ 1, 2 (to be codified as amendments to Gov't Code § 552.116(a) and (b)(1)). Section 3616 of title 42 of the United States Code states the commission is authorized by statute to utilize the services

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<sup>2</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

of state and local fair housing agencies to assist in meeting its statutory mandate to enforce laws prohibiting discrimination. *See* 42 U.S.C. § 3616. You state, pursuant to this authorization, the commission's Civil Rights Division ("CRD") is currently operating under a cooperative agreement with the U.S. Department of Housing and Urban Development in the investigation and resolution of complaints of housing discrimination. Section 301.063 of the Property Code provides the CRD shall receive, investigate, seek to conciliate, and act on complaints alleging violations of the Texas Fair Housing Act. *See* Prop. Code § 301.063. You state the CRD is handling housing discrimination complaints filed with the commission under its cooperative agreement and is conducting investigations pursuant to federal and state law. You also state the information at issue consists of working papers of those ongoing compliance audits and investigations. Based on your representations and our review, we agree the remaining requested information consists of audit working papers the commission may withhold under section 552.116 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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](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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 430842

Enc. Submitted documents

c: Requestor  
(w/o enclosures)