



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 5, 2012

Ms. Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

OR2012-00203

Dear Ms. Hibbs:

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# 442341 (TDA PIR No. 12-093).

The Texas Department of Agriculture (the "department") received a request for schedules, travel expenses and reimbursements, names, titles, and employment information related to any person who holds a title of "Commissioner," "Deputy Commissioner," "Assistant Commissioner," "Secretary," "Undersecretary," "Deputy Secretary," "Assistant Secretary," "Deputy Director," or "Director." You state some information has been or will be released to the requestor. You claim the submitted information is excepted from disclosure under sections 552.117, 552.130, 552.136, 552.137, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹Although you raise section 552.024 of the Government Code as an exception to disclosure, this section is not an exception to public disclosure under the Act. Rather, this section permits a current or former official or employee of a governmental body to choose whether to allow public access to certain information relating to the current or former official or employee that is held by the employing governmental body. See Gov't Code § 552.024. We note section 552.117 of the Government Code is the proper exception to assert.

²We 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.

Section 552.117 excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the department may only withhold information under section 552.117 on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. The submitted information contains the home address of a department employee. To the extent the employee has elected to keep this information confidential, the department must withhold the information we have marked under section 552.117 of the Government Code.

Section 552.136 provides “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov't Code § 552.136. The submitted information contains partial credit card numbers, a travel account number, and a state account number. This office has determined that partial credit card numbers and account numbers are access devices numbers for purposes of section 552.136. *See id.* § 552.136(a) (defining “access device”). The department states these account numbers were used to transfer money. Accordingly, the department must withhold the partial credit card numbers and account numbers we have marked under section 552.136 of the Government Code.

You raise section 552.130 as an exception to disclosure. Section 552.130 excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. *See id.* § 552.130. The submitted information does not contain any information subject to section 552.130. Accordingly, no portion of the remaining information may be withheld under section 552.130 of the Government Code.

You also raise section 552.137 as an exception to disclosure. Section 552.137 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 owner of the e-mail address consents to its release or the e-mail address falls within the scope of section 552.137(c). *See id.* § 552.137(a)-(c). Section 552.137 is not applicable to the work e-mail address of an employee of a governmental body because such an address is not that of the employee as a “member of the public” but is instead the address of an individual as a government employee. The remaining information does not contain any e-mail addresses belonging to a member of the public. Therefore, no portion of the remaining information may be withheld under section 552.137 of the Government Code.

Finally, you state the department will redact social security numbers from any information being released under section 552.147 of the Government Code. Section 552.147 provides

“[t]he social security number of a living person is excepted from” required public disclosure under the Act.³ *Id.* § 552.147.

In summary, the department must withhold the home address of a department employee that we have marked under section 552.117(a)(1) of the Government Code so long as the employee to whom the information relates timely elected to keep such information confidential. The department must withhold the partial credit card number and account numbers we have marked under section 552.136 of the Government Code. 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,



Jessica Marsh
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 442341

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³Section 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).