



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 5, 2012

Ms. Pegi Wolbrueck
Workforce Solutions-Brazos Valley
3991 East 29th Street
P.O. Drawer 4128
Bryan, Texas 77805

OR2012-03326

Dear Ms. Wolbrueck:

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# 447008.

The Workforce Solutions Brazos Valley Board (the "board") received a request for a copy of the requestor's voluntary support papers. You ask whether the board must release the submitted information. We have considered your comments and reviewed the submitted information.

We must address the board's procedural obligations under the Act. Pursuant to section 552.301(b) of the Government Code, a governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving a request. *See id.* § 552.301(b). Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). In this instance, the date stamp on the submitted request for information reflects the board received the instant request on November 29, 2011. You did not, however, request a ruling from this office or submit the

requested information until December 21, 2011. Consequently, we find the board failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). In response to our office's request for additional information under section 552.303 of the Government Code, you inform us the submitted information is confidential based on a confidentiality agreement signed by all board employees as required by your employee handbook.¹ We note a governmental body cannot overrule or repeal provisions of the Act through an agreement or contract. *See* Attorney General Opinion JM-672 (1987); Open Records Decision No. 541 at 3 (1990) (“[T]he obligations of a governmental body under [the Act] cannot be compromised simply by its decision to enter into a contract”). Consequently, unless the information falls within an exception to disclosure, it must be released, notwithstanding any expectation or agreement to the contrary.

In this instance, you do not cite to any specific law, and we are not aware of any, that makes the submitted information confidential. *See, e.g.*, Open Records Decision No. 478 at 2 (1987) (statutory confidentiality). Therefore, the department must release the submitted information.² If you believe this information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

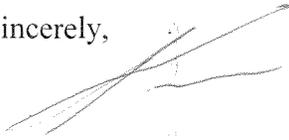
¹*See* Gov't Code § 552.303(c)-(d) (if attorney general determines that information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general no later than seventh calendar day after date of receipt of notice).

²We note the information being released contains information about the requestor that would be protected from public disclosure by laws and exceptions enacted to protect personal privacy. The requestor has a right of access to this private information in accordance with section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision 481 at 4 (1987). Therefore, if the board receives another request for this particular information from a different requestor, then it should again seek a decision from this office.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/akg

Ref: ID# 447008

Enc. Submitted documents

c: Requestor
(w/o enclosures)