



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 6, 2013

Ms. Margo Kaiser
Staff Attorney
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2013-02148

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# 480165 (TWC Tracking No. 121207-037).

The Texas Workforce Commission (the "commission") received a request for eleven categories of information pertaining to three named employees. As permitted by section 552.024(c)(2) of the Government Code, the commission states it will redact certain information it determines to be subject to section 552.117 of the Government Code without requesting a decision from this office. Pursuant to section 552.024(c-1), the requestor has asked this office to review this information and render a decision as to whether this information is excepted from disclosure under section 552.117.¹ Additionally, you state the commission will redact certain information pursuant to section 552.147(b) of the Government Code and Open Records Letter No. 684 (2009).² Further, you claim some of

¹We note the requestor also asked this office to review information the commission stated it will redact under section 552.136(c) of the Government Code. However, in correspondence dated January 22, 2013, the commission informed us it will release the information it previously sought to redact under section 552.136(c). *See Gov't Code* § 552.136(c). Therefore, we need not address the requestor's appeal under section 552.136(d) of the Government Code for this information.

²Section 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. *See Gov't Code* § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general opinion. ORD 684.

the requested information is excepted from disclosure under section 552.102 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.³

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Having carefully reviewed the information at issue, we conclude the information you have marked is not excepted under section 552.102(a) and may not be withheld on that basis.

As previously noted, pursuant to section 552.024(c)(2) of the Government Code, the commission states it will redact information it determined to be subject to section 552.117 of the Government Code from the information provided to the requestor. You have provided that information to this office in response to the requestor seeking a ruling from this office regarding whether or not the information you seek to redact under section 552.117 is so excepted. Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code §§ 552.024, .117. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. You have not submitted copies of the employees' election forms. Therefore, we must rule conditionally. If these employees made timely elections under section 552.024, the commission must withhold the information we marked under section 552.117(a)(1). If an employee did not make a timely election under section 552.024, then the commission may not withhold the information pertaining to that employee under section 552.117(a)(1). In either case, we find no portion of the remaining information you have marked for redaction constitutes the home address and telephone number, emergency contact information, social security number, or family member information of a current or former official or employee of the commission. Accordingly, none of the remaining information may be withheld under section 552.117(a)(1) of the

³We 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 those submitted to this office.

Government Code.⁴ As no other exceptions to disclosure have been raised, 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,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/bhf

Ref: ID# 480165

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴If the employee did not make a timely confidentiality election under section 552.024, as previously noted, section 552.147(b) of the Government Code permits a governmental body to withhold a living person's social security number without the necessity of requesting a decision from this office. See Gov't Code § 552.147(b).