



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 8, 2014

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

OR2014-18008

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# 538857 (ORR# 140714-021).

The Texas Workforce Commission (the "commission") received a request for the total number of sexual harassment charges received by the commission and right-to-sue letters issued by the commission relating to several specified companies during a specified time period. You state the commission will withhold certain information pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>3</sup>

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<sup>1</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information without the necessity of requesting an attorney general decision.

<sup>2</sup>We note, and you acknowledge, the commission did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the exception you claim can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

<sup>3</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.

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 exception encompasses information other statutes make confidential. Pursuant to section 21.204 of the Labor Code, the commission may investigate a complaint of an unlawful employment practice. *See* Labor Code § 21.204; *see also id.* §§ 21.0015 (powers of Commission on Human Rights under Labor Code<sup>33</sup> chapter 21 transferred to commission’s civil rights division), .201. Section 21.304 of the Labor Code provides “[a]n officer or employee of the commission may not disclose to the public information obtained by the commission under [s]ection 21.204 except as necessary to the conduct of a proceeding under [chapter 21 of the Labor Code].” *Id.* § 21.304.

You argue the submitted information pertains to complaints of unlawful employment practices investigated by the commission under section 21.204 and on behalf of the Equal Employment Opportunity Commission. However, upon review, we find you have not demonstrated how any portion of the submitted information was obtained by the commission under section 21.204 of the Labor Code so as to be subject to section 21.304 of the Labor Code. Therefore, we find you have failed to demonstrate how section 21.304 of the Labor Code is applicable to the submitted information. Accordingly, the commission may not withhold any portion of the submitted information under section 552.101 of the Government Code on that basis, and the commission must release the submitted information.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 538857

Enc. Submitted documents

c: Requestor  
(w/o enclosures)