



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 5, 2009

Ms. Elinore Tecson
Personnel Attorney, General Law Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

OR2009-01557

Dear Ms. Tecson:

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# 334498.

The Texas Commission on Environmental Quality (the "commission") received a request for salary information and pay compensation records for forty-seven named individuals from September 1, 2006 through August 30, 2008. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

We begin by noting that some of the submitted documents are not responsive to the instant request for information, because they are outside of the particular time period requested. We have marked these documents, which the commission need not release in response to this request, and this ruling will not address that information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed).

We next note that the responsive salary and compensation information is subject to required public disclosure under section 552.022(a)(2) of the Government Code, which provides:

¹We 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.

(a) the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]

Gov't Code § 522.022(a)(2). The only exception you raise against disclosure of this information is section 552.103 of the Government Code, which is not "other law" that makes information expressly confidential for the purposes of section 522.022(a). *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d at 475-76; *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Consequently, the commission may not withhold the salary information under section 552.103. As you have raised no further exceptions to disclosure, the responsive salary information must be released.²

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 at (512) 475-2497.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jb

²We note the submitted information contains social security numbers. 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.

Ms. Elinore Tecson - Page 3

Ref: ID# 334498

Enc. Submitted documents

c: Requestor
(w/o enclosures)