



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

August 4, 2009

Ms. Helen Valkavich  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283

OR2009-10769

Dear Ms. Valkavich:

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# 351012 (COSA File No. 09-0602).

The City of San Antonio (the "city") received a request for the payroll documents of a named city employee for the last five years showing his gross annual pay, hire date, and employment application. We understand you to have released some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under section 552.117 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released).

We note that the requestor identifies himself as the chief legal officer of the San Antonio Housing Authority ("SAHA"). The requestor states that he seeks access to the requested information in connection with a SAHA investigation relating to the named city employee. The city generally argues that, within the context of the present request for information,

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<sup>1</sup>Although, you initially raised sections 552.101 through 552.147 of the Government Code, you have not submitted arguments, other than under section 552.117, explaining the applicability of the claimed exceptions. Therefore, we presume you have withdrawn the remaining exceptions. *See Gov't Code §§ 552.301, 302.*

SAHA is not a governmental body for purposes of the Act. The city states that SAHA administers Section 8 Housing, a federal housing program managed by the United States Department of Housing and Urban Development. Accordingly, the city argues that SAHA is a "delegate federal agency" and, because the federal government is not subject to the Act, the city cannot release confidential information to SAHA as an intergovernmental transfer. Generally, whether a governmental entity may release information to another governmental entity is not a question under the Act, as the Act is concerned with the required release of information to *the public*. See *id.* §§ 552.001, .002, .021; see also Attorney General Opinions, H-683 (1975), H-242 (1974), M-713 (1970); Open Records Decision Nos. 661 (1999), 655 (1997). However, this office has concluded information ordinarily may be transferred between governmental bodies that are subject to the Act without waiving exceptions to the public disclosure of that information or affecting its confidentiality. See Attorney General Opinions H-836 (1976), H-242, M-713; Open Records Decision Nos. 655, 414 (1984). Further, this office has previously concluded that SAHA is a "governmental body" within the meaning of the Act. See Open Records Decision No. 268 (1981). Upon review of the city's arguments, we find that the city has failed to sufficiently demonstrate that SAHA is not a governmental body for purposes of the Act within the context of the present request for information. Therefore, we continue to rely on Open Records Decision No. 268 in determining that SAHA is a governmental body for purposes of the Act.

Accordingly, the city has the discretion to release the requested information to this requestor pursuant to an intergovernmental transfer. For many years, this office has recognized that it is the public policy of this state that governmental bodies should cooperate with each other in the interest of the efficient and economical administration of statutory duties. See, e. g., Attorney General Opinion H-836 (1976); Open Records Decision No. 655 (1997). *But see* Attorney General Opinions DM-353 at 4 n.6 (1995) (interagency transfer prohibited where confidentiality statute enumerates specific entities to which release of confidential information is authorized and where receiving agency is not among statute's enumerated entities), JM-590 (1986) (same); Open Records Decision No. 655 (same), 650 (1996) (transfer of confidential information to federal agency impermissible unless federal law requires its disclosure). As stated above, information may be transferred between governmental bodies that are subject to the Act without waiving exceptions to the public disclosure of that information or affecting its confidentiality. See Attorney General Opinions H-836 (1976), H-242 (1974), M-713 (1970); ORD Nos. 655, 414 (1984). Thus, the release of information by one agency to another agency is not a release to the public for the purposes of section 552.007 of the Government Code, which prohibits the selective disclosure of information. See ORD 655 at 8. Accordingly, the city would have the discretion to release the requested information to this requestor even if the information is confidential. However, should the city decline to exercise that discretion, the city must nonetheless adhere to the following decision regarding the applicability of the claimed exception to the requested information.

Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former home addresses and telephone numbers, social security number, 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. 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). You state, and provide documentation showing, that the employee at issue made a timely request in accordance with section 552.024 to keep their personal information confidential. Accordingly, the city must withhold this information, which we have marked, under section 552.117 of the Government Code. The remaining information must be released to the requestor.

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](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,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 351012

Enc. Submitted documents

c: Requestor  
(w/o enclosures)