



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2013

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

OR2013-07706

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# 486860 (TWC Tracking No. 130221-031).

The Texas Workforce Commission (the "commission") received a request for the file related to the requestor's wage claim appeal. You claim the requested information is excepted from disclosure under sections 552.101 through 552.1425 of the Government Code. We have considered the exceptions you claim.

We must address the commission's procedural obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) 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. Gov't Code § 552.301(e). The commission received the request for information on February 21, 2013. Thus, the commission's fifteen-business-day deadline under section 552.301(e) was March 14, 2013. However, as of this date of this letter, the commission has not submitted written comments regarding the stated exceptions or a copy or representative sample of the requested information. Therefore, the commission failed to comply with the procedural requirements mandated by section 552.301(e).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason 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 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). By failing to comply with section 552.301, you have waived the discretionary exceptions you raised. *See* Open Records Decision No. 522 (1989) (discretionary exceptions in general). Furthermore, because you have not submitted the information to this office for our review, we have no basis for finding it confidential under the claimed mandatory exceptions. Therefore, we have no choice but to order the commission to release the responsive information in accordance with section 552.302 of the Government Code. If the commission believes the information is confidential and may not lawfully be released, the commission must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 486860

No enclosures

c: Requestor