



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2014

Mr. Jonathan Miles
Open Government Attorney
Texas Department of Family and Protective Services
Mail Code E611
P.O. Box 149030
Austin, Texas 78714-9030

OR2014-19792

Dear Mr. Miles:

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# 541739 (DFPS Ref. No. 081320142XD).

The Texas Department of Family and Protective Services (the "department") received a request for exit interviews referred to in a specified presentation. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

¹Although you claim the requested information is not subject to the Act, you make no arguments to support this assertion. Therefore, we assume you have withdrawn this claim for the submitted information. *See* Gov't Code §§ 552.301, .302. We note the department did not comply with section 552.301 of the Government Code in requesting this decision. *See id.* § 552.301(b), (e). Nonetheless, because section 552.101 of the Government Code 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.

²We 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 section encompasses information protected by other statutes. Section 651.007 of the Government Code provides in relevant part as follows:

(b) Each state agency shall conduct an exit interview with an employee who leaves employment with the agency. The state agency shall conduct the exit interview by having the employee access the questionnaire posted on the state auditor’s Internet site and electronically submit the completed questionnaire to the state auditor.

...

(g) The responses to an exit interview questionnaire are confidential and not subject to disclosure under Chapter 552. . . . The responses may be disclosed only to a law enforcement agency in a criminal investigation or on order of a court.

Id. § 651.007(b), (g). The department explains the information at issue “consists of responses to exit surveys and information derived from responses to exit interview questions made by former [department] employees . . . obtained from the state auditor pursuant to section 651.007(e)[.]” *See id.* § 651.007(e) (state auditor shall submit quarterly reports to each state agency containing responses to exit interview questionnaire submitted by former agency employees; report may not contain employee identifying information). It does not appear that any of the exceptions in section 651.007(g) apply. Accordingly, the department must withhold the requested exit survey responses, which we have marked, under section 552.101 of the Government Code in conjunction with section 651.007(g) of the Government Code. The remaining information in the state auditor’s report is not confidential under section 651.007(g), and the department may not withhold it under section 552.101 of the Government Code on that basis.

To summarize: The department must withhold the requested exit survey responses, which we have marked, under section 552.101 of the Government Code in conjunction with section 651.007(g) of the Government Code. The department must release the remaining 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](#), 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 541739

Enc. Submitted documents

c: Requestor
(w/o enclosures)