



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 21, 2006

Mr. David Weaver  
General Counsel  
Texas State Securities Board  
208 East 10<sup>th</sup> Street, 5<sup>th</sup> Floor  
Austin, Texas 78701-2407

OR2006-11010

Dear Mr. Weaver:

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# 258694.

The Texas State Securities Board (the "board") received a request for a complete copy of the board employee manual issued to a named employee on or around December 28, 2004. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a)(14) provides that an administrative staff manual is public information and not excepted from required public disclosure unless it is expressly confidential under other law. Gov't Code § 552.022(a)(14). Thus, the submitted employee manual must be released pursuant to section 552.022(a)(14) unless the information is expressly made confidential under other law. Although the board raises section 552.103 of the Government Code for this information, this exception is a discretionary exception that protects a governmental body's interests and is therefore not "other law" for purposes of section 552.022. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (section 552.103 may be waived by governmental body); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 (1999) (governmental body may waive section 552.103). Therefore, the submitted information may not be withheld under section 552.103. However, because section 552.139

of the Government Code constitutes “other law” for purposes of section 552.022, we will address your claim regarding this section.

Section 552.139 of the Government Code, provides the following:

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to computer network security or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report; and

(2) any other assessment of the extent to which data processing operations, a computer, or a computer program, network, system, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body’s or contractor’s electronically stored information is vulnerable to alteration, damage, or erasure.

Gov’t Code § 552.139. You assert that a portion of the submitted information “describes procedures regarding transmittal of confidential information via [board] computer operations.” After review of your arguments and the information at issue, we conclude you have established that the information you have marked is related to computer network security; therefore, the board must withhold the information you have marked pursuant to section 552.139. The remaining submitted information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the

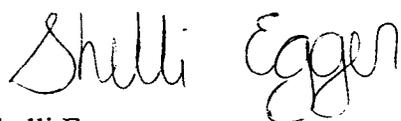
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Shelli Egger  
Assistant Attorney General  
Open Records Division

SE/sdk

Ref: ID# 258694

Enc. Submitted documents

c: Mr. Travis Brent Hull  
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(w/o enclosures)