



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 30, 2009

Mr. Ricardo R. Lopez  
Feldman, Rogers, Morris & Grover, L.L.P.  
517 Soledad Street  
San Antonio, Texas 78205-1508

OR2009-01222

Dear Mr. Lopez:

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# 335507.

The North East Independent School District (the "district"), which you represent, received a request for the recommendations from the district's most recent safety and security audit. You claim the submitted audit report is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note a large portion of the submitted audit report does not consist of recommendations, as specified in the request. Thus, the information not pertaining to recommendations, which we have marked, is not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

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 made confidential by other statutes. You assert the submitted responsive information is confidential under section 418.177 of the

Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. Section 418.177 provides:

Information is confidential if the information:

(1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and

(2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

*Id.* § 418.177. The fact information may relate to a governmental body's security concerns does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute's key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any exception to disclosure, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A).

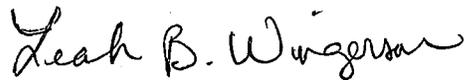
You inform us the safety and security audit at issue was commissioned by the district "to be performed on all of its facilities to assess risks and inadequacies associated with potential acts of terrorism or related criminal activity." You also state district officials have used the audit report recommendations to create a "strategic plan for dealing with potential criminal activity, including terrorist acts." After reviewing your arguments and the submitted responsive information, we find the submitted safety and security audit recommendations relate to an assessment of the risk or vulnerability of persons or property to an act of terrorism or related criminal activity. *See id.* § 418.177. Therefore, the district must withhold the submitted safety and security audit recommendations under section 552.101 of the Government Code in conjunction with section 418.177 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](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,

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/cc

Ref: ID# 335507

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)