



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 20, 2009

Mr. R. John Cullar  
Cullar & McLeod  
801 Washington Avenue, Suite 217  
Waco, Texas 76701

OR2009-03658

Dear Mr. Cullar:

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# 342591.

The City of Lorena (the "city"), which you represent, received a request for the construction plans for the city's wastewater treatment plant. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. As part of the Texas Homeland Security Act, sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. You assert that the submitted information is confidential under section 418.181 of the Government Code, which provides:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

*Id.* § 418.181. The fact that information may relate to a governmental body's security measures does not make the information *per se* confidential under the Texas Homeland Security Act. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality

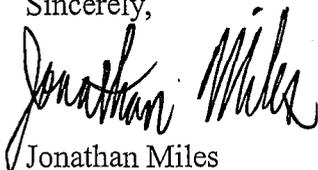
provision controls scope of its protection). Furthermore, the mere recitation of a statute's key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under the Texas Homeland Security Act must be accompanied by an adequate explanation of how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The requested documents relate to the city's wastewater treatment plant. You assert and we agree that the city's wastewater treatment plant is part of the city's critical infrastructure for purposes of section 418.181. *See generally* Gov't Code § 421.001 (defining "critical infrastructure" to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). You argue that the submitted construction plans fall within the scope of section 418.181 of the Government Code. You explain how these plans show technical details of the wastewater treatment plant, including "the location of all controls of the system . . . , the location of the site where the chlorine gas supply is stored, the location where the chlorine gas enters the system, the location of all pipes. . . , and the location of key valves." Additionally, you inform us that the plans identify the areas of the system most vulnerable to contamination or service disruption. After reviewing your arguments, we conclude that the city has adequately explained how these plans fall within the scope of section 418.181 of the Government Code. Therefore, the submitted information must be withheld from disclosure under section 552.101 of the Government Code in conjunction with section 418.181 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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 342591

Enc. Submitted documents

c: Requestor  
(w/o enclosures)