



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 6, 2010

Mr. Carey E. Smith  
General Counsel  
Texas Health and Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711

OR2010-04795

Dear Mr. Smith:

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# 375382 (OR-20100120-4890).

The Texas Health and Human Services Commission (the "commission") received a request for (1) all SAS 70 Level II reports for two specified contracts; (2) all performance audit reports conducted for two specified contracts; (3) audits of accounts receivable associated with a specified contract; and (4) Pharmacy Rebate Administration Audits and Retrospective Price Redetermination audit reports prepared for the commission since 2007 relating to the administrations of the Texas Medicaid/CHIP Program. You state you have released information responsive to categories 2, 3, and 4 of the request. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.139 of the Government Code provides in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], 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, a computer program, network, system, or system interface, 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 containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use.

Gov't Code § 552.139(a)-(b). You state the commission serves as the single state agency for the Medicaid program, which is a joint state and federal program that provides medical assistance and care to certain low-income persons. You assert the submitted information consists of audit reports assessing the effectiveness of security protocols of both the contractor operating the Medicaid Management Information System ("MMIS") and the MMIS itself. You state much of the MMIS is accessible only to authorized state and vendor staff, clients, and providers using passwords that limit them to certain information in the system. Further, you state these reports "detail the assessment of all security controls in place . . . and describe any vulnerabilities of the [c]ommission's computer network security, such as the potential for unauthorized access." You assert, if released, the reports "may expose security weaknesses and potentially allow unauthorized MMIS access to passwords and HIPAA-related information." Based on your representations and our review of the information at issue, we find the commission must withhold the submitted information in its entirety under section 552.139 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 375382

Enc. Submitted documents

c: Requestor  
(w/o enclosures)