



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 2, 2013

Mr. Chad J. Lersch  
Assistant General Counsel  
Texas Department of Information Resources  
P.O. Box 13564  
Austin, Texas 78711-3564

OR2013-17160

Dear Mr. Lersch:

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# 501060.

The Texas Department of Information Resources (the "department") received a request for certain information related to reports from all state agencies, on an agency-by-agency basis, of cyber security threats, incidents, and breaches resulting in external public awareness and incidents reported to law enforcement during a specified time period. The department has released to the requestor aggregated data regarding breaches or incidents, including information related to the type and scope of incidents, the resolution of the breaches or incidents, whether law enforcement was contacted, and the cost of incidents/breaches to the state. 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 representative sample of information.<sup>1</sup>

Section 552.139 of the Government Code provides, in pertinent part:

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<sup>1</sup>We assume that 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 that those records contain substantially different types of information than that submitted to this office.

(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)(1)-(2). You state the submitted information consists of a report of specific security information supplied to the department by reporting state agencies through the Security Incident Reporting System ("SIRS") as required by section 202.26 of title 1 of the Texas Administrative Code. *See* 1 T.A.C. § 202.26 (providing reporting requirements to department for state agencies experiencing security-related incidents). You inform us the submitted report reveals detailed network security information, as well as both real and perceived network vulnerabilities of various state agencies. Based on your representations and our review, we find the submitted information relates to computer network security. Accordingly, the department must withhold the submitted information under section 552.139(a) of the Government Code.<sup>2</sup>

You ask this office to issue a previous determination that would permit the department to withhold security information supplied to the department by reporting state agencies through the SIRS as required by section 202.26 of title 1 of the Texas Administrative Code under section 552.139(a) of the Government Code without the necessity of requesting a decision under the Act. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of Government Code). After due consideration, we have decided to grant your request. Therefore, this letter shall serve as a previous determination under section 552.301(a) that the department must withhold security information supplied to the department by reporting state agencies through the SIRS as required by section 202.26 of title 1 of the Texas Administrative Code under section 552.139(a) of the Government Code. So long as the elements of law, facts, and circumstances do not change so as to no longer support the

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

findings set forth above, the department need not ask this office for a decision again with respect to this type of information. *See id.* at 7. As noted above, the department released to the requestor certain aggregated information concerning reported incidents and breaches. This previous determination does not apply to such data in the aggregate.

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](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,



Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/bhf

Ref: ID# 501060

Enc. Submitted documents

c: Requestor  
(w/o enclosures)