



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 10, 2014

Mr. Joel E. Geary  
Counsel for Dallas Metrocare Services  
Vincent Lopez Serafino Jenevein, P.C.  
1601 Elm Street, Suite 4100  
Dallas, Texas 75201

OR2014-00695

Dear Mr. Geary:

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# 510569.

Dallas Metrocare Services d/b/a Metrocare Services ("Metrocare"), which you represent, received a request for Metrocare's list of vendors and records of any payments to vendors providing IT services for a specified time period; information pertaining to any forensic studies performed on a named individual's computer for a specified time period; e-mails to any of four named individuals regarding specified topics; all e-mails, memoranda, and documents referencing a specified topic; and a list of all websites visited by a named individual on his office computer for a specified time period. You state Metrocare has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.139 of the Government Code. We have considered the exception 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)(1)-(2). Section 2059.055 of the Government Code provides in part:

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency;

(2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or

(3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

*Id.* § 2059.055(b). You state the submitted information consists of investigation reports and discussions pertaining to an investigation regarding Metrocare's e-mail system security due to a security breach incident. You explain the information outlines the investigation findings and recommendations for preventing future information technology security breaches of Metrocare's computer network and e-mail system. Based on your representations and our review of the information, we find you have demonstrated portions of the submitted information consist of computer network vulnerability reports and/or relate to computer network security, the design, operation, or defense of Metrocare's computer network, or an assessment of Metrocare's computer network vulnerabilities. Accordingly, Metrocare must withhold the information we have marked under section 552.139 of the Government Code. However, you have not demonstrated how any portion of the remaining information, which pertains to contract negotiations, billing information, invoices, and executed agreements for services, relates to computer network security, or to the design, operation, or defense of a

computer network as contemplated by section 552.139(a), consists of a computer network vulnerability report or assessment as contemplated by section 552.139(b), or relates to computer network security or restricted information under section 2059.055. Thus, none of the remaining information is subject to section 552.139, and Metrocare may not withhold it on this basis.

We note the remaining information includes e-mail addresses of members of the public that are subject to section 552.137 of the Government Code.<sup>1</sup> Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). Section 552.137 is not applicable to an institutional e-mail address, an Internet website address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, or an e-mail address maintained by a governmental entity for one of its officials or employees. The e-mail addresses we have marked are not of the types specifically excluded by section 552.137(c). Accordingly, Metrocare must withhold the e-mail addresses we have marked under section 552.137 of the Government Code unless the owners of the addresses affirmatively consent to their release.<sup>2</sup>

We note some of the remaining information appears to be subject to copyright law. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, Metrocare must withhold the information we have marked under section 552.139 of the Government Code. Metrocare must withhold the e-mail addresses we have marked under section 552.137 of the Government Code unless the owners of the addresses affirmatively consent to their release. Metrocare must release the remaining information; however, any information protected by copyright may only be released in accordance with copyright law.

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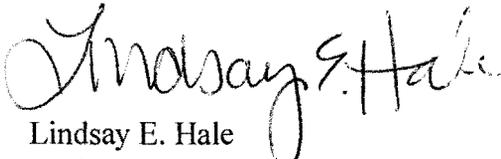
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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.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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/tch

Ref: ID# 510569

Enc. Submitted documents

c: Requestor  
(w/o enclosures)