



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 7, 2014

Mr. Mark G. Daniel
Counsel for the City of Watauga
Evans, Daniel, Moore, Evans & Lazarus
115 West Second Street, Suite 202
Fort Worth, Texas 76102

OR2014-17888

Dear Mr. Daniel:

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# 541763.

The City of Watauga (the "city"), which you represent, received two requests from the same requestor for a list of all military equipment delivered under two specified programs. You claim the submitted 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.

You seek to withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. 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 exception encompasses information that is made confidential by other statutes, including section 418.181 of the HSA.

Section 418.181 provides as follows:

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. *See generally id.* § 421.001 (defining critical infrastructure to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, and functions vital to the state or the nation”). The fact information may be related to a governmental body’s emergency response preparedness or security concerns does not make such information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision 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) (governmental body must explain how claimed exception to disclosure applies).

You inform us the submitted information consists of a list of all vehicles, equipment, and weapons the city currently possesses that were obtained through the specified programs. You argue release of the submitted information could provide an individual with technical details regarding the vulnerability and response capability of the city to a terrorist attack on the city’s critical infrastructure such as the city’s police department, fire department, or water supply. Upon review, we find you have failed to demonstrate how any of the submitted information at issue identifies the technical details of particular vulnerabilities of critical infrastructure. Consequently, the city may not withhold any of the submitted information under section 552.101 in conjunction with section 418.181 of the Government Code. As you raise no further exceptions to disclosure, the city must release the submitted information.

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, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 541763

Enc. Submitted documents

c: Requestor
(w/o enclosures)