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ATTORNEY GENERAL OF TEXAS

July 23, 2015

Mr. Chad J. Lersch
Assistant General Counsel
Texas Department of Information Resources
P.O. Box 13564
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OR2015-15025

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# 572750 (DIR PIA-05-15-06, DADS #2015SOLEG0085, TEA ID# 24475, TXDMV ID 15-05-095, TPWD #2015-05-R43, DPS PIR #15-2515)

The Texas Department of Information Resources (the "department") received a request for copies of the detailed assessment and recommendations contained in a specified study conducted by the department. The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code. Additionally, the department states release of this information may implicate the interests of third parties. Accordingly, the department states it notified these third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue should not be released. *See Gov't Code* § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have received comments from multiple third parties. We have considered the submitted arguments and reviewed the submitted representative sample of information.¹

¹We 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.

Initially, we note some of the third parties seek to withhold information not submitted to this office by the department. By statute, this office may only rule on the public availability of information submitted by the governmental body requesting the ruling. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Because this information was not submitted by the department, this ruling does not address this information and is limited to the information submitted as responsive by the department.

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[.]

Id. § 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). The department asserts the requested information reveals detailed network security information, real and perceived network vulnerabilities, and the defense of these vulnerabilities. The department further asserts release of the information at issue “would invite additional network attacks that . . . would result in compromised [information technology] security[.]” The department also provides an affidavit from the state’s Interim Chief Information Security Officer (the “ISO”). The ISO informs us it is his “responsibility to assure the security of all information systems and data maintained by the state.” The ISO states release of the information at issue “would compromise the integrity and security of agencies throughout the state, as that data identifies and describes the details of agency systems, including security systems.” Based on these representations and our review of the information, we conclude the department must withhold the requested information under section 552.139 of the Government Code.²

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of the requested information.

Ref: ID# 572750

Enc. Submitted documents

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