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ATTORNEY GENERAL OF TEXAS

September 9, 2015

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

OR2015-18744

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# 578532.

The Texas Department of Information Resources (the "department") received two requests for information pertaining to reports or reviews by the Quality Assurance Team and the Contract Advisory Team related to TXCSES 2.0. The department does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, the department states it notified the Office of the Attorney General of Texas ("OAG") of the request pursuant to section 552.304 of the Government Code. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released). We have reviewed the submitted information.

Initially, the department informs us Exhibit B was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-23328 (2014). In that ruling, we determined the department may withhold some information under section 552.104 of the Government Code, must withhold other information under section 552.139 of the Government Code, and must release the remaining responsive information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the department must continue to rely on Open Records Letter No. 2014-23328 as a previous determination and withhold or release Exhibit

B in accordance with that ruling. We will address the department's arguments against the release of Exhibit C, which is not encompassed by Open Records Letter No. 2014-23328.

We note section 552.139 of the Government Code is applicable to some of the information in Exhibit C.¹ Section 552.139 provides, in part, the following:

(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(b) of the Government Code provides the following:

(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.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

Id. § 2059.055(b). Upon review, we determine the department must withhold the types of information we have indicated in Exhibit C under section 552.139 of the Government Code.

To conclude, the department must withhold or release Exhibit B in accordance with Open Records Letter No. 2014-23328. The department must withhold the types of information we have indicated in Exhibit C under section 552.139 of the Government Code, but must release the remaining information in this exhibit to the requestor.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 578532

Enc. Submitted documents

c: Requestor
(w/o enclosures)