



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 20, 2015

Ms. Angie A. Welborn
Senior Legal Counsel
State Auditor's Office
P.O. Box 12067
Austin, Texas 78711-2067

OR2015-22012

Dear Ms. Welborn:

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# 584421.

The State Auditor's Office (the "SAO") received a request for all annual reports and reports of periodic audits submitted to the SAO during a specified time period.¹ You state you have provided some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state release of some of this information may implicate the interests of M.D. Anderson Cancer Center, The Texas State University System's Lamar Institute of Technology (the "university"), and the Texas State Library and Archives Commission (the "commission"). Accordingly, you state you notified the third parties of the request for information and of their rights to submit arguments to this

¹We note the SAO sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

office as to why the information at issue should not be released. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have received comments from the university and the commission.² We have considered the submitted arguments and reviewed the submitted information.

Section 552.139 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

²As of the date of this letter, we have not received comments from M.D. Anderson Cancer Center.

(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 university and the commission argue their information is excepted from disclosure under section 552.139. The university states its information consists of reviews its computer network security, contains restricted information under section 2059.055 of the Government Code, and relates to the design, operation, or defense of the university's network. Thus, the university states its submitted information relates to computer network security and its release could be valuable to someone targeting the university's computer network system for criminal activity. Based on the university's representations and our review, we find the university has demonstrated the applicability of 552.139 to its submitted information; therefore, the SAO must withhold the university's information, which we have marked, under section 552.139 of the Government Code.

The commission states its information "reveals the results of an internal audit of detailed network security information for [the commission]," and "outlines real and perceived network vulnerabilities." The commission states the release of its information "would invite additional network attacks that, over time and with an appropriate level of resources, would result in compromised [information technology] security for [the commission], which would subject [the commission's] electronically stored information to alteration, damage, erasure, and/or theft. Based on these representations and our review, we find the commission has also demonstrated the applicability of section 552.139 to its submitted information; therefore, the SAO must also withhold the commission's information, which we have marked, under section 552.139 of the Government Code.³

In summary, the SAO must withhold the university's information, as well as the commission's information, which we have marked, under section 552.139 of the Government Code. The SAO must release the remaining 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

³As our ruling is dispositive, we need not address the commission's remaining arguments against disclosure of its information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 584421

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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