



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 7, 2017

Ms. Tiffany N. Evans
Assistant City Attorney
City of Houston
P. O. Box 368
Houston, Texas 77001-0368

OR2017-04835

Dear Ms. Evans:

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# 648282 (GC# 23962).

The City of Houston (the "city") received a request for information related to the maintenance, testing, and replacement of specified groundwater wells. You state the city will release some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information protected by other statutes. As part of the Texas Homeland Security Act ("HSA"), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. You assert the submitted information is confidential under section 418.181 of the Government Code, which provides "[t]hose 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. The fact that information may relate to a governmental body's security concerns does not make the information *per se* confidential under the HSA. *See Open*

¹You acknowledge, and we agree, the city did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nevertheless, the city claims section 552.101 of the Government Code for the submitted information. Because section 552.101 can provide a compelling reason to overcome the presumption of openness, we will address your argument under this section for the submitted information. *See id.* §§ 552.007, .302.

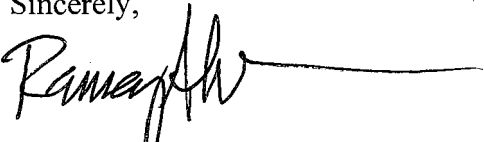
Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute's key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, 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 explain the submitted information contains technical details of the city's water system. You assert, and we agree, the city's water system is critical infrastructure. *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, economy, or morale of the state or the nation"). You argue release of the submitted information "would reveal the major water supply entry points in the [c]ity's water distribution system" including "entry points that are vulnerable to [terrorist] attack." You further argue "releasing this information would significantly impact the [c]ity's ability to deliver public safety services to citizens in the event of an act of terrorism or related criminal activity." Based on your arguments and our review, we find you have demonstrated release of the submitted information would identify the technical details of particular vulnerabilities of the city's water system to an act of terrorism. Thus, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 648282

Enc. Submitted documents

c: Requestor
(w/o enclosures)