



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 16, 2017

Mr. Paul Fletcher
Counsel for the City of Eagle Pass
Langley & Banack Incorporated
745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

OR2017-13644

Dear Mr. Fletcher:

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# 662962 (City Request No. 2017-52).

The City of Eagle Pass (the "city"), which you represent, received a request for all e-mails related to a specified backup, an event log, and specified e-mails during a specified time period. You claim some information is not subject to the Act. You also claim the submitted information is excepted from disclosure under section 552.139 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.¹

Initially, you argue some of the submitted information is not "public information" subject to disclosure under the Act. Section 552.002(a) of the Government Code defines "public information" as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

¹We assume 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 those records contain substantially different types of information than that submitted to this office.

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Gov't Code § 552.002(a). In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. You state some of the submitted information consists of documentation information and other computer programming information. You argue the information has no significance other than as a tool for the maintenance, manipulation, or protection of public property. Based on your representations and our review, we find some of the information at issue is not public information for purposes of the Act, and the city is not required to release it in response to this request. However, the remaining information has significance other than its use as a tool for the purpose of maintenance, manipulation, or protection of public property. Accordingly, we conclude the remaining information is public information as defined by section 552.002 and is subject to disclosure under the Act. Thus, we will address your argument against disclosure of the remaining information under section 552.139 of the Government Code.

Section 552.139 of the Government Code provides, in relevant 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 is confidential:

(1) a computer network vulnerability report;

(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[.]

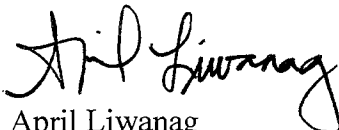
Gov't Code § 552.139(a), (b)(1)-(2). You state the remaining information relates to the design, operation, or defense of a computer network. You explain the remaining information pertains to network servers, software, and network status reports. You argue release of this information could allow others to discover the known weakness or vulnerability of the city's computer infrastructure and the specific software at issue. Based upon your representations and our review, we find some of the information at issue relates to computer network security, or to the design, operation, or defense of a computer network as contemplated in section 552.139(a). However, we find you have failed to demonstrate the remaining information relates to the city's computer network security, or to the design, operation, or defense of the city's computer network as contemplated in section 552.139(a). Accordingly, with the exception of the information we marked for release, the city must withhold the remaining information under section 552.139 of the Government Code.

In summary, some of the submitted information is not public information for purposes of the Act, and the city is not required to release it in response to this request. With the exception of the information we marked for release, the city must withhold the remaining information under section 552.139 of the Government Code. The information marked for release must be released.

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,



April Liwanag
Attorney
Open Records Division

AML/eb

Ref: ID# 662962

Enc. Submitted documents

c: Requestor
(w/o enclosures)