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ATTORNEY GENERAL OF TEXAS

June 20, 2017

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

OR2017-13656

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# 662967 (City Request No. 2017-51).

The City of Eagle Pass (the "city"), which you represent, received a request for the detailed budget request report for a certain year including a specified department. You claim the submitted information is excepted from disclosure under sections 552.106 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.022(a)(5) of the Government Code provides the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate[.]

Gov't Code § 552.022(a)(5). Upon review, we find the submitted information consists of budget information used to estimate the need for or expenditure of public funds or taxes.

Thus, the information is subject to section 552.022(a)(5) of the Government Code. Section 552.106 of the Government Code is a discretionary exception and does not make information confidential under the Act. *See* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the city may not withhold the submitted information under section 552.106. However, as section 552.139 of the Government Code makes information confidential under the Act, we will consider the city's argument under this section for the information at issue.

Section 552.139 of the Government Code provides:

(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 of the Government Code provides in pertinent 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). You assert the submitted information relates to the design and operation of the city's computer network and contains information about "the hardware and software purchased by the [c]ity for its computer network." You further assert release of the information at issue would result in "persons utilizing specific known deficiencies or vulnerabilities of said software or hardware or of the [c]ity's computer infrastructure." Based on your representations and our review, we find section 552.139 is applicable to some of the information at issue. Accordingly, the city may withhold the information we marked under section 552.139 of the Government Code. However, you have not demonstrated any of the remaining information relates to the specifics of 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). Thus, the city may not withhold any of the remaining information under section 552.139 of the Government Code. As you raise no further arguments against disclosure, the remaining information 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,



Emily Kunst
Attorney
Open Records Division

EK/eb

Ref: ID# 662967

Enc. Submitted documents

c: Requestor
(w/o enclosures)