



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 26, 2017

Mr. Todd Chenoweth
General Counsel
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

OR2017-16825

Dear Mr. Chenoweth:

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# 672645.

The Texas Water Development Board (the "board") received a request for information pertaining to the Finding of No Significant Impact document related to the City of Lubbock's (the "city") Northwest Lubbock Drainage Improvements Project. The board states it has released some of the requested information. The board claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the board claims 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." Gov't Code § 552.101. This section encompasses information protected by other statutes. Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act ("HSA"). You claim the submitted information is excepted from disclosure under section 418.181 of the Government Code. Section 418.181 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; *see also 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, and functions vital to the state or the nation"). The fact that information may relate to a governmental body's security concerns or emergency management activities does not make the information *per*

se confidential under the HSA. *See* Open 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 a 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).

The board states the submitted information consists of engineering drawings that relate to the city's water and sewer systems, which are part of the city's critical infrastructure. *See 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"). The board explains the drawings identify the specific location and technical details of the city's Northwest Lubbock drainage system and include details of the city's storm sewer lines, utility lines, and pipelines. The board argues the information could be used to identify the technical details of particular vulnerabilities of the city's water system to an act of terrorism. Based on these representations and our review, we agree the submitted information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, the board 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 672645

Enc. Submitted documents

c: Requestor
(w/o enclosures)