



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 31, 2019

Mr. Adam Bitter
General Counsel
Office of the Secretary of State
P.O. Box 12697
Austin, Texas 78711-2697

OR2019-02894

Dear Ms. Aston and Mr. Bitter:

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# 749283.

The Office of the Secretary of State (the "secretary's office") received a request for two categories of information pertaining to a specified company. You state the secretary's office released some information. You claim the submitted information is excepted from disclosure under section 552.139 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, you state the secretary's office sought clarification from the requestor for a portion of the request for information. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also*

¹We note the secretary's office did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(e). Nonetheless, because section 552.139 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

²We 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 that those records contain substantially different types of information than that submitted to this office.

City of Dallas v. Abbott, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). We have no indication the secretary's office received a response from the requestor for this portion of the request. Thus, for the portion of the request for which you have sought but not received clarification, we find the secretary's office is not required to release information in response to this portion of the request. However, if the requestor clarifies this portion of the request for information, the secretary's office must seek a ruling from this office before withholding any responsive information from the requestor. *See* Gov't Code 552.222; *City of Dallas*, 304 S.W.3d at 387. We note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990).

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.

Gov't Code § 552.139(a). 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 governmental entity;
 - (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 state the submitted information consists of an assessment of the vulnerabilities of a computer network of the secretary's office to criminal activity. Based on this representation and our review of the information, we find the submitted information relates to computer network security, and the design, operation, or defense of a computer network of the secretary's office. Accordingly, the secretary's office must withhold the submitted information under section 552.139 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/mo

Ref: ID# 749283

Enc. Submitted documents

c: Requestor
(w/o enclosures)