



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 10, 2019

Ms. Jennifer Burnett
Senior Attorney & Public Information Coordinator
The University of Texas System
210 West 7th Street
Austin, Texas 78701

OR2019-25282

Dear Ms. Burnett:

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# 785565 (OGC# 191498).

The University of Texas at Austin (the "university") received a request for architectural drawings or renderings or schematics or engineering plans or drawings relating to the expansion and renovation of specified university facilities.¹ You state you will release some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 of the Government Code also encompasses the Texas Homeland Security Act (the "HSA"). As part of the 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. Section 418.181 provides "[t]hose documents or portions

¹ You state and provide documentation demonstrating, the university sent the requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You inform us the university received the required deposit on June 24, 2019. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

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 generally be related to a governmental body’s security concerns or to a security system 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 confidentiality provision, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive information falls 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 information at issue consists of detailed drawings and technical specifications of the University’s South End Zone expansion and renovation project at Darrell K. Royal-Texas Memorial Stadium and Moncrief-Neuhaus Athletic Center, the football support facility at the south end of the stadium (collectively, the “stadium”). You explain the stadium is frequented by student-athletes, faculty, and staff, and members of the general public, including visiting teams, as well as game-day personnel. Thus, you assert, and we agree, the stadium 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 state the information at issue reveals technical specifications of the project and reveals details regarding infrastructure security. Further, you state criminal actors could use the information at issue to undermine the collective efforts of the university and other law enforcement agencies to safeguard to welfare of those on campus, particularly for the widely-attended football games held at the stadium. Based on your representations and our review, we find you have demonstrated the release of most of the submitted information would identify the technical details of particular vulnerabilities of the stadium to an act of terrorism. Thus, with the exception of the information we marked for release, the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. However, upon review, we find you have failed to demonstrate the information we marked for release identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Consequently, the information we marked for release is not confidential under section 418.181, and the university may not withhold it under section 552.101 on that basis. The university must release the remaining information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "D. Michelle Case". The signature is written in a cursive style with a long horizontal flourish extending to the right.

D. Michelle Case
Assistant Attorney General
Open Records Division

MC/jxd

Ref: ID# 785565.

Enc. Submitted documents

c: Requestor
(w/o enclosures)