



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 10, 2019

Mr. Vic Ramirez  
Associate General Counsel  
Lower Colorado River Authority  
P.O. Box 220  
Austin, Texas 78767-0220

OR2019-28578

Dear Mr. Ramirez

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# 791074.

The Lower Colorado River Authority (the "authority") received a request for a list of specified talk group identification numbers that operate on a specified authority radio. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of numerous third parties. Accordingly, you state you notified the affected third parties of the request for information and of their rights to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code §§ 552.304 (interested party may submit comments stating why information should or should not be released), .305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from the City of Buda, the City of Dripping Springs and Hays County. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

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<sup>1</sup>We 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.

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. Section 552.101 encompasses information that is made confidential by statute. As part of the Texas Homeland Security Act (“HSA”), section 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. You assert portions of the remaining information are confidential under section 418.179(a) of the Government Code, which provides:

Information is confidential if the information:

- (1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and
- (2) relates to the details of the encryption codes or security keys for a public communications system.

Gov’t Code § 418.179(a). The fact that information may relate to a governmental body’s security concerns 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).

You state the responsive information consists of talk group identification numbers used by governmental entities and first responders to communicate and utilize the radio system at issue as part of their public safety, disaster preparedness, and criminal and terroristic threat responses. You state release of the information at issue would provide a person with the type of information that would allow for evaluation and planning of a terrorist act or related criminal activity by targeting specific entities on the authority’s radio system, knowing how many radios a particular entity has and estimating how much disruption would result from hacking or disrupting communications during a terrorist act. Based on your representations and our review, we agree the submitted information relates to the details of encryption codes or security keys for a public communications system which we understand is collected, assembled, or maintained by the authority for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity. Therefore, the authority must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.179 of the Government Code.<sup>2</sup>

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/eb

Ref: ID# 791074

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

18 Third Parties  
(w/o enclosures)