



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 23, 2019

Ms. Esther Pena
Administrative Assistant
City of Laredo
P.O. Box 579
Laredo, Texas 78042-0579

OR2019-36414

Dear Ms. Pena:

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# 806393 (ORR# W013768).

The City of Laredo (the "city") received a request for several categories of information related to the city's water quality, including disinfectant logs for storage tanks. The city states it is releasing some of the requested information. The city claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception the city claims and reviewed the submitted representative sample of information.²

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

¹ We note the city did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the exception the city claims 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.

² 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.

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”). The city claims 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).

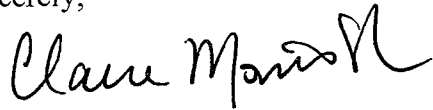
The city states the submitted information relates to the city’s water and sewer systems. Upon review, we agree the city’s water and sewer systems are part of the city’s critical infrastructure. *See id.* § 421.001(2). The city states the information identifies disinfection residual levels at specific locations throughout the city’s water system and argues public disclosure of the information would reveal vulnerabilities of the city’s water supply system to an act of terrorism. Based on these representations and our review, we agree some of the submitted information, which we marked, identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. However, the city has not demonstrated the applicability of section 418.181 of the Government Code to the remaining information and the city may not withhold the remaining information on that basis. The city 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 "Claire Morris Sloan". The signature is written in a cursive style with a large, stylized initial "C".

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

Ref: ID# 806393

Enc. Submitted documents

c: Requestor
(w/o enclosures)