



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 24, 2020

Mr. William M. McKamie  
Interim City Attorney  
City of Boerne  
P.O. Box 1677  
Boerne, Texas 78006

OR2020-05829

Dear Mr. McKamie:

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# 813174.

The City of Boerne (the "city") received a request for geographic information system shape files of city utilities.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 protected by chapter 418 of the Government Code. As part of the Texas Homeland Security Act (the "HSA"), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. Section 418.181 of the Government Code provides the following:

Those 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.

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<sup>1</sup> You state, and provide documentation demonstrating, the city sought and received clarification of the information requested. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purposes of clarifying or narrowing request); see also *City of Dallas v. Abbott*, 304 S. W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

*Id.* § 418.181; *see also id.* § 421.001(2) (defining “critical infrastructure” to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). 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 explain the submitted information reveals locations of the city’s utility systems. You assert, and we agree, the city’s utility systems are critical infrastructure. *See generally id.* § 421.001. You argue release of the submitted information “could facilitate the tampering or destruction of the [c]ity’s utility systems . . . and make the [c]ity vulnerable to criminal or terroristic activity.” Based upon your representations and our review, we find the city demonstrated release of the submitted information would identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Accordingly, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.<sup>2</sup>

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,



James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/be

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

Ref: ID# 813174

Enc. Submitted documents

c: Requestor  
(w/o enclosures)