



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 17, 2020

Ms. Lauren Downey
Assistant Attorney General
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2020-20533

Dear Ms. Downey:

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# 839886 (PIR# R004554).

The Office of the Attorney General (the "OAG") received a request for four categories of information pertaining to a specified computer software. The OAG claims some of the requested information is not subject to the Act. The OAG claims some of the requested information is excepted from disclosure under section 552.139 of the Government Code. We have considered the submitted arguments and reviewed the submitted representative sample of information.¹ We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we address the OAG's assertion that the requested computer source code is not subject to the Act. In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. The OAG asserts the requested computer source code has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property. Based on this representation and our review, we find the requested computer source code does not constitute public

¹ 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 that those records contain substantially different types of information than that submitted to this office.

information under section 552.002 of the Government Code. Therefore, we conclude the requested computer source code is not subject to the Act and need not be released to the requestor.

Section 552.139 of the Government Code provides, in 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.

(b) The following information is confidential:

(1) a computer network vulnerability report; [and]

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(1)-(2). Section 2059.055 of the Government Code provides, in 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 state agency;

(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). The OAG asserts the information it indicated is confidential pursuant to section 552.139. The OAG state the information it indicated “relates to the design, operation, and defense of a computer network.” Based on these representations and our review, we find the information the OAG indicated relates to computer network security, and the design, operation, or defense of an OAG computer network. Accordingly, the OAG

must withhold the information the OAG indicated under section 552.139 of the Government Code.

In summary, the requested computer source code is not subject to the Act and need not be released to the requestor. The OAG must withhold the information the OAG indicated 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 <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,

Matthew Taylor
Assistant Attorney General
Open Records Division

MT/rm

Ref: ID# 839886

Enc. Submitted documents

c: Requestor
(w/o enclosures)