



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 16, 2022

Ms. Karol Davidson
Deputy General Counsel for State Matters
Texas Juvenile Justice Department
P.O. Box 12757
Austin, Texas 78711

OR2022-04767

Dear Ms. Davidson:

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# 929057 (Ref. No. 37197).

The Texas Juvenile Justice Department (the "department") received a request for the emergency evacuation and transfer plans for five department facilities. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.156 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.156 of the Government Code provides, in relevant part, as follows:

(a) Except as otherwise provided by this section, the following information is excepted from disclosure under this chapter:

(1) a continuity of operations plan developed under Section 412.054, Labor Code; and

(2) all records, written, produced, collected, assembled, or maintained as part of the development or review of a continuity of operations plan developed under Section 412.054, Labor Code.

¹ We note you 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). Nonetheless, because sections 552.101 and 552.156 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

(b) Forms, standards, and other instructional, information, or planning materials adopted by the office to provide guidance or assistance to a state agency in developing a continuity of operations plan under [s]ection 412.054, Labor Code, are public information subject to disclosure under this chapter.

Gov't Code § 552.156(a)-(b). Section 412.054 of the Labor Code provides, in relevant part, as follows:

(a) Each state agency shall work with the [State Office of Risk Management] to develop an agency-level continuity of operations plan that outlines procedures to keep the agency operational in case of disruptions to production, finance, administration, or other essential operations. The plan must include detailed information regarding resumption of essential services after a catastrophe, including:

- (1) coordination with public authorities;
- (2) management of media;
- (3) customer service delivery;
- (4) assessing immediate financial and operational needs; and
- (5) other services as determined by the office.

...

(c) Except as otherwise provided by this section, the following information is confidential and is exempt from disclosure under [the Act]:

- (1) a continuity of operations plan developed under this section; and
- (2) any records written, produced, collected, assembled, or maintained as part of the development or review of a continuity of operations plan under this section.

Labor Code § 412.054(a), (c). You state the submitted information consists of the department's continuity of operations plan and other records written, produced, collected, assembled, or maintained as part of the development or review of a continuity of operations plan. You inform us this information was created in accordance with section 412.054 of the Labor Code. The information does not appear to be subject to section 552.156(b). Thus, upon review, we find you have demonstrated the applicability of section 552.156 of the Government Code to the submitted information, and the department must withhold it on this basis.²

² As our ruling is dispositive, we need not address the remaining argument against disclosure of this 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,

Chase D. Young
Assistant Attorney General
Open Records Division

CDY/jxd

Ref: ID# 929057

c: Requestor
