



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 18, 2022

Ms. ML Calcote  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2022-07953

Dear Ms. Calcote:

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# 936624 (PIR 21-3964).

The Texas Department of Public Safety (the "department") received a request for three categories of information pertaining to the State Police Analytical Research Tool – Networked ("SPART-N"). You state the department has released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Deloitte Consulting LLP ("Deloitte"). Accordingly, you state, and provide documentation showing, the department notified Deloitte of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(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 received comments from Deloitte. 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 that 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.

We note Item 1 is subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part, the following:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). We note the information at issue consists of information in an account, voucher, or contract relating to the receipt or expenditure of funds by a governmental body that is subject to section 552.022(a)(3). The department must release this information pursuant to section 552.022(a)(3) unless it is made confidential under the Act or other law. *See id.* § 552.022(a)(3). Although the department raises section 552.108 of the Government Code for Item 1, section 552.108 is discretionary in nature and does not make information confidential under the Act. *See Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions); 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver).* Therefore, the department may not withhold Item 1 under section 552.108. However, because section 552.101 of the Government Code can make information confidential for purposes of section 552.022, we will consider the applicability of this exception to the information subject to section 552.022.

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 other statutes, such as the Texas Homeland Security Act (the “HSA”). Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the HSA. Section 418.176(a) provides:

Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

(1) relates to staffing requirements of an emergency response provider, including law enforcement agency, a fire-fighting agency, or an emergency services agency;

(2) relates to a tactical plan of the provider; or

(3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

*Id.* § 418.176(a). Section 418.177 of the Government Code states:

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 an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

*Id.* § 418.177. Section 418.181 of the Government Code provides:

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.

*Id.* § 418.181. 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 inform us the submitted information pertains to SPART-N, an analytical data mart solution that organizes internal and external databases containing law enforcement sensitive information. Further, you explain release of the submitted information would provide criminals with invaluable information regarding the sources of information utilized by the department in the detection and investigation of crimes. You also assert the submitted information relates to tactical plans maintained by the department and release of this information would compromise the effectiveness of these tactics. Additionally, you state disclosure of the details of the underlining databases used by SPART-N would identify technical details of potential vulnerabilities of critical infrastructure and makes the system more vulnerable to potential hackers. Upon review, we find some of the submitted information, which we marked, relates to a tactical plan and to an assessment of the vulnerabilities of persons or property to an act of terrorism or related criminal activity and is maintained by the department for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Accordingly, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.<sup>2</sup> However, we find you have

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

failed to demonstrate the remaining information consists of information that is confidential under section 418.176, section 418.177, or section 418.181 of the Government Code. Therefore, the department may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 418.176, section 418.177, or section 418.181 of the Government Code. The remaining information in Item 1 must be released.

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,

Michelle Garza  
Assistant Attorney General  
Open Records Division

MRG/jxd

Ref: ID# 936624

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)