



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 29, 2022

Ms. Stephanie Coggins
City Secretary
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79105-1971

OR2022-09088

Dear Ms. Coggins:

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# 939923 (GovQA #4792).

The City of Amarillo (the "city") received a request for (1) the city's current emergency management plan, including any multi-jurisdictional plans and (2) minutes of specified meetings. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the portion of the request seeking minutes of specified meetings. To the extent any information responsive to this portion of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 Although you also raise section 552.139 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as sections 418.176 through 418.182 of the Government Code, which were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the “HSA”). Section 418.176 provides, in relevant part, as follows:

(a) 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 a law enforcement agency, a fire-fighting agency, or an emergency services agency; [or]

(2) relates to a tactical plan of the provider[.]

Id. § 418.176(a)(1), (2). 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 generally be related to emergency preparedness does not make the information *per se* confidential under the provisions of the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions 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 confidentiality provision, a governmental body asserting these sections must adequately explain how the responsive information falls within the scope of the provision. Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The city states the submitted information consists of its emergency management plan. The city asserts release of this information “would allow [individuals] to commit acts of terrorism on the [c]ity [by providing them] the necessary means to avoid apprehension and create mayhem on [c]ity buildings, public utilities, and other critical infrastructure as well as jeopardize the security of the city’s critical infrastructure.” Based upon your representations and our review, we find you have demonstrated the information at issue relates to tactical plans of emergency response providers 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 or identifies 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 418.176 and section 418.181 of the Government Code.²

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

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jm

Ref: ID# 939923

Enc. Submitted documents

c: Requestor
(w/o enclosures)