



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 18, 2022

Mr. Kieran Hillis
Assistant General Counsel and Public Information Coordinator
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2022-24770

Dear Mr. Hillis:

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# 966590 (OOG# 297-22).

The Office of the Governor (the "governor's office") received a request for grants given to a specified police department during a certain time period. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 sections 418.176 and 418.177 of the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. 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[.]

Gov't Code § 418.176(a)(1)-(2). Section 418.177 provides:

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. 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). As with any confidentiality provision, a governmental body asserting these sections must adequately explain how the responsive information falls within the scope of the provisions. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The governor's office states release of the information it marked and indicated would "reveal tactical plans and capabilities of emergency response providers in relation to operations at a border of the State of Texas [(the "state")] as well as "possible vulnerabilities related to the border, including staffing levels and locations of law enforcement" and "release of the information at issue could aid terrorists and other criminals in avoiding detection and in the commission of crimes against critical infrastructure related to the state's border." Based upon these representations and our review, we find the information at issue relates to staffing requirements and tactical plans of emergency response providers maintained by the governor's office for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Accordingly, the governor's office must withhold the information it marked under section 552.101 of the Government Code in conjunction with sections 418.176 and 418.177 of the Government Code.¹ The governor's office must release the remaining 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

¹ As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/jm

Ref: ID# 966590

Enc. Submitted documents

c: Requestor
(w/o enclosures)