



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 1, 2006

Mr. Steve Aragón  
Chief Counsel  
Texas Health and Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711

OR2006-02017

Dear Mr. Aragón:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 243380.

The Texas Health and Human Services Commission (the "commission") received a request for specified "deliverables" received by the commission from Accenture. You state that you have released most of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

You claim that the submitted information, which consists of two reports entitled "Security Management Plan" and "Security Management Plan: Inventory of Appendices," is excepted from disclosure under section 552.139 of the Government Code which provides as follows:

- (a) Information is excepted from the requirements of Section 552.021 if it is information that relates to computer network security or to the design, operation, or defense of a computer network.

---

<sup>1</sup>We note that you did not raise section 552.101 of the Government Code within the ten-business-day deadline mandated by section 552.301(b) of the Government Code. However, because the applicability of this section can provide a compelling reason to withhold information, we will consider your argument under this section. See Gov't Code § 552.302, see also Open Records Decision No. 150 at 2 (1977).

(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, or a computer program, network, system, 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 is vulnerable to alteration, damage, or erasure.

Gov't Code § 552.139. You state that public dissemination of the submitted information would serve as a "road map for hackers seeking to either access confidential client information . . . or disrupt the database served by the computer network." Upon review, we determine that the commission has not demonstrated that the submitted information relates to computer network security or to the design, operation, or defense of a computer network as contemplated in section 552.139(a). Furthermore, the commission has not demonstrated that this information consists of a computer network vulnerability assessment or report as contemplated in section 552.139(b). Consequently, this information is not excepted from disclosure under section 552.139.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by statute. You also claim that the submitted information is made confidential by section 2054.077 of the Government Code. This section provides in part:

(b) The information resources manager of a state agency may prepare or have prepared a report assessing the extent to which a computer, a computer program, a computer network, a computer system, computer software, or data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm, including the extent to which the agency's or contractor's electronically stored information is vulnerable to alteration, damage, or erasure.

(c) Except as provided by this section, a vulnerability report and any information or communication prepared or maintained for use in the preparation of a vulnerability report is confidential and is not subject to disclosure under Chapter 552.

Gov't Code § 2054.077(b), (c). Upon review, we find that the submitted information does not constitute a vulnerability report. Furthermore, we find that you have failed to

demonstrate that the submitted information was “prepared or maintained for use in the preparation of a vulnerability report.” We therefore conclude that none of the information at issue may be withheld under section 552.101 on the basis of section 2054.077. Accordingly, the commission must release the submitted information to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

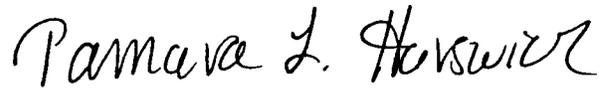
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Tamara L. Harswick". The signature is written in a cursive style with a large initial 'T' and 'H'.

Tamara L. Harswick  
Assistant Attorney General  
Open Records Division

TLH/sdk

Ref: ID# 243380

Enc. Submitted documents

c: Ms. Carrie Tournillon  
Texas Legal Services Center  
815 Brazos, Suite 1100  
Austin, Texas 78701  
(w/o enclosures)