



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 22, 2008

Ms. Amanda Bigbee  
General Counsel  
Keller Independent School District  
350 Keller Parkway  
Keller, Texas 76248

OR2008-17394

Dear Ms. Bigbee:

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# 330597.

The Keller Independent School District (the "district") received a request for the most recent security audit report that is required under section 37.108 of the Education Code, as well as any assessments, interviews, or surveys related to the audit. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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. This exception encompasses information that other statutes make confidential, such as section 418.177 of the Government Code. This section was added to

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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.

chapter 418 of the Government Code as part of the Texas Homeland Security Act. Section 418.177 provides as follows:

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 a vulnerability assessment does not make the information *per se* confidential under section 418.177. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). As with any confidentiality statute, a governmental body asserting one of these sections must adequately explain how the responsive information falls within the scope of the provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You state security audits “are conducted at all [d]istrict locations to evaluate potential risks of persons and property to criminal and other acts, including an act of terrorism.” You also state “[r]eleasing this information to the public is tantamount to providing a blueprint for areas of weakness within the [d]istrict’s campuses, thereby leaving the [d]istrict more exposed to criminal and terroristic activities.” Thus, you contend the submitted information is confidential under section 418.177. Having considered your arguments and reviewed the submitted information, we agree the submitted information is related to the district’s assessment of its risk or vulnerability to an act of terrorism or related criminal activity. Therefore, the district must withhold the submitted information under section 552.101 in conjunction with section 418.177.<sup>2</sup>

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

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

governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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 challenge 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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/eeg

Ref: ID# 330597

Enc. Submitted documents

c: Requestor  
(w/o enclosures)