



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 21, 2009

Mr. Ronald J. Bounds  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2009-14947

Dear Mr. Bounds:

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# 358949.

The City of Corpus Christi (the "city") received a request for the city's and the city's police department's hurricane and post hurricane preparedness plans. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> 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. This exception encompasses information that is made confidential by other statutes, including 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 part:

(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:

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<sup>1</sup>We note in your brief dated August 20, 2009, you withdrew your remaining assertions under the Act.

- (1) relates to the staffing requirements of an emergency response provider, including a 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 provides that information is confidential if it:

- (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 be related to a governmental body's emergency response preparedness or security concerns does not make such 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 state the submitted emergency management plan is "not only maintained for the purpose of responding to hurricanes, but also for the purpose of preventing, detecting, responding to, or investigating other emergencies . . . including acts of terrorism or related criminal activities." You also state the submitted emergency management plan relates to staffing requirements of the city's emergency providers and "details tactical methods that are to be implemented by response providers in the event of . . . emergencies." You assert the release of the submitted emergency management plan would compromise the city's ability to respond to emergencies by allowing "individuals to effectuate terroristic and/or criminal acts against the [c]ity." Based on your representations and our review of the submitted information, we find that you have demonstrated that portions of the submitted emergency management plan are collected, assembled, or maintained for the purpose of preventing,

detecting, responding to, or investigating an act of terrorism or related criminal activity as it relates to an emergency response provider's staffing requirements and tactical plan. *See id.* § 418.176(a). However, we find the remaining information, which we have marked for release, consists of the city's general plans for responding to an emergency, and does not reveal specific staffing requirements or tactical methods related to the prevention, detection, response, or investigation of an act of terrorism or related criminal activity. Accordingly, the city must withhold the submitted emergency management plan, with the exception of the information we have marked for release, under section 552.101 in conjunction with section 418.176 of the Government Code.

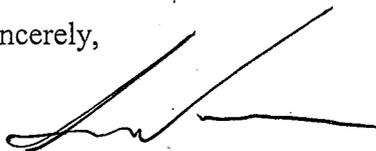
Upon review of the remaining information at issue, we find the city has failed to show that any of the remaining information relates to an assessment of the vulnerabilities of persons or property to an act of terrorism or related criminal activity. *See id.* § 418.177. We conclude, therefore, that the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 418.177 of the Government Code.

In summary, with the exception of the information we have marked for release, the city must withhold the submitted emergency management plan under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code. The remaining information 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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 358949

Enc. Submitted documents

c: Requestor  
(w/o enclosures)