



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2010

Ms. Jennifer Cohen
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2010-14732

Dear Ms. Cohen:

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# 395459 (ORA# 10-1604).

The Texas Department of Public Safety (the "department") received a request for the following categories of information for a specified time period: (1) the number of department officers assigned to the Governor's Protective Detail; (2) the total amount of compensation and overtime compensation paid to department personnel for work on the Governor's Protective Detail; and (3) the total amount of travel-related expenses incurred by department personnel for traveling with or in service of the governor and/or his family. You indicate you will release information responsive to categories two and three of the request. You claim 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. This exception encompasses the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. Section 418.176 of the HSA 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:

(1) relates to the staffing requirements of an emergency response provider, including law enforcement agency, a fire-fighting agency, or an emergency services agency; [or]

(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). The fact that information may relate to a governmental body's security concerns or emergency management activities does not make the 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 claim the submitted information is subject to section 418.176(a)(1) of the Government Code because it relates to the staffing requirements of a law enforcement agency, the governor's Executive Protection Bureau ("EPB"), formerly the Governor's Protective Detail. You inform us the EPB is tasked with protecting the governor and other state officials from harm. You assert the EPB's function is to prevent, detect, respond to, or investigate an act of terrorism or related criminal activity. Upon review, we find the department has demonstrated the information at issue relates to the staffing requirements 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. Accordingly, the department must withhold the submitted information under section 552.101 in conjunction with section 418.176 of the Government Code.¹

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.

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.

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, 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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/tp

Ref: ID# 395459

Enc. Submitted documents

c: Requestor
(w/o enclosures)