



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2011

Mr. Fred M. Barker
Assistant County Attorney
Parker County
118 West Columbia Street
Weatherford, Texas 76086

OR2011-18870

Dear Mr. Barker:

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# 440358.

The Parker County Judge and the Parker County Fire Marshal (collectively, the "county") received a request for several categories of information, including Parker County's Emergency Management Plan (the "emergency plan") and information pertaining to the county's indigent defense fund for court-appointed lawyers. You state you are making some of the responsive available to the requestor. You claim the emergency plan is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you inform us the county requested clarification of the portion of the request relating to the county's indigent defense fund for court-appointed lawyers. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). You do not indicate the county has received a response to its request for clarification. Accordingly, the county has no obligation at this time to release any information that might be responsive to this portion of the request. However, if the county receives clarification and wishes to withhold any of the information encompassed by the clarified request, you must request another decision from this office at that time. *See id.* §§ 552.301, .302; *see also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests

clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

We now turn to your arguments against disclosure of the submitted emergency plan. 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. You raise section 552.101 in conjunction with provisions of the Texas Homeland Security Act (the “HSA”), chapter 418 of the Government Code. Sections 418.176, 418.177, and 418.181 were added to chapter 418 as part of the HSA. These provisions make certain information related to terrorism confidential. Section 418.176 provides in relevant 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 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 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. Section 418.181 provides:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Id. § 418.181. 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) (language of confidentiality provisions 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 assert the emergency plan consists of information “collected assembled, and maintained by the county for the purpose of responding to emergency situations, including acts of terrorism and related criminal activity[.]” You also assert the submitted information contains tactical operation plans for responding to various types of emergencies, emergency management staffing requirements, and a compilation of contact information of emergency management response staff. Upon review, we find the county has established that most of the submitted information relates to the staffing requirements of an emergency response provider, relates to a tactical plan of the provider, or consists of a list of telephone numbers of the provider under section 418.176. *See id.* § 418.176(a)(1)-(3). Accordingly, except as designated below, the county must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.¹ However, the “State Planning Standards Checklist[s]” that appear in Annex A, Annex C through L, Annex N through R, and Annex T through V relate to elements required to be included in the emergency plan, but do not reveal information about any specific emergency plan. We find the county has failed to establish how this information either (1) relates to the staffing requirements of an emergency response provider or to a tactical plan of the provider, or consists of a list of telephone numbers of the provider for purposes of section 418.176 or (2) relates to an assessment of the risk or vulnerability of persons or property to an act of terrorism or related criminal activity for purposes of section 418.177. Consequently, the county may not withhold the “State Planning Standards Checklist[s]” that appear in Annex A, Annex C through L, Annex N through R, and Annex T through V under section 552.101 of the Government Code in conjunction with section 418.176 or 418.177 of the Government Code. We also find the county has failed to establish how the “General Pop[ulation] Shelters – FEMA” found in Annex C falls within section 418.176. Therefore, the county may not withhold the “General Pop[ulation] Shelters – FEMA” found in Annex C under

¹As our ruling for this information is dispositive, we need not address your arguments against its disclosure under sections 418.177 and 418.181 of the Government Code.

section 418.176. As you raise no additional exceptions to disclosure, these portions of the emergency plan must be released to the requestor.

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, 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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ag

Ref: ID# 440358

Enc. Submitted documents

c: Requestor
(w/o enclosures)