



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 18, 2012

Mr. K. Scott Oliver  
Corporate Counsel  
San Antonio Water System  
P.O. Box 2449  
San Antonio, Texas 78298-2449

OR2012-00866

Dear Mr. Oliver:

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# 443501.

The San Antonio Water System (the "system") received a request for all final audit reports over a specified time period and the 2011 Audit Plan.<sup>1</sup> You state the system has made most of the requested information available to the requestor. 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 required public 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, such as section 418.177 of the Texas Homeland Security Act, chapter 418 of the Government Code (the "HSA"). Section 418.177 of the Government Code provides as follows:

Information is confidential if the information:

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<sup>1</sup>We note the system asked for and received clarification regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); see *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad 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).

(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.

Gov't Code § 418.177; *see generally id.* § 421.001 (defining critical infrastructure to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, and functions vital to the state or the nation”). 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). 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 2009-1 Audit Report on Facilities Access Security Controls and Procedures Evaluation is an internal audit conducted to identify the controls and procedures in place to provide security over access to the system’s production facilities and to evaluate the effectiveness of the current security controls and procedures. You assert the system’s production facilities constitute critical infrastructure. You state the submitted information pertains to an assessment of the risk and vulnerability of the system’s production facilities and “provides conclusions as to the state of the security measures, identifies specific areas and locations that have vulnerabilities and provides insights into methods procedures, and practices of [the system] related to its infrastructure security.” You also state release of the submitted information would cause significant risk to the system’s production facilities to acts of terrorism or related criminal activity. Upon review of your arguments and the submitted information, we agree the submitted information is maintained by the system for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity and relates to an assessment of the risk or vulnerability of critical infrastructure to an act of terrorism or related criminal activity. Therefore, the system must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.177 of the Government Code.<sup>2</sup>

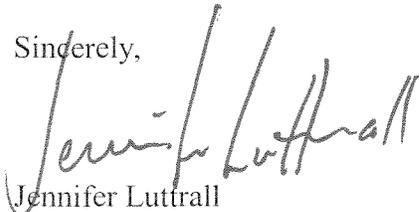
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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,

A handwritten signature in black ink, appearing to read "Jennifer Luttrall". The signature is written in a cursive style with a large initial "J".

Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/dls

Ref: ID# 443501

Enc. Submitted documents

c: Requestor  
(w/o enclosures)