



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 16, 2012

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

OR2012-10998

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# 459541 (Corpus Christi File No. CRhi1).

The City of Corpus Christi and the Corpus Christi Police Department (collectively, the "city") each received a request for information pertaining to the city's hurricane plans. 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 information that is made confidential by other statutes, including section 418.176 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:

(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[.]

Id. § 418.176(a)(1)-(2). The fact 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 information is maintained "not only 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 information relates to staffing requirements of the city's emergency providers and "details locations, shifts, and contact information applicable to certain [c]ity emergency response staff[.]" You assert the release of the submitted information 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 you have demonstrated portions of the submitted 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 consists of factual information related to hurricanes, 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 information we have marked under section 552.101 in conjunction with section 418.176 of the Government Code. As you raise no other exceptions against disclosure of the remaining information, it 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, 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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/bs

Ref: ID# 459541

Enc. Submitted documents

c: Requestor
(w/o enclosures)