



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 31, 2013

Mr. Kevin D. Cullen
Counsel for the Victoria County
Cullen, Carsner, Seerden & Cullen, L.L.P.
P.O. Box 2938
Victoria, Texas 77902-2938

OR2013-13211

Dear Mr. Cullen:

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# 494823.

Victoria County (the "county"), which you represent, received a request for information pertaining to the county's emergency planning committee (the "committee"), including a list of members; bylaws; meeting schedule, agendas, minutes, and attendance rosters; the schedule and description of any training exercises and drills; grant applications and a list of grants received by the committee; the committee's budget and expenses for each fiscal year; and the county's most recent emergency management plan for a specified time period. You state you have released some information 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. As part of the Texas Homeland Security Act (the "HSA"), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. Section 418.176 provides, in relevant part, as follows:

(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). 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 this section 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 state the submitted information consists of information collected, assembled, and maintained by the county for the purposes of responding to natural or man-made emergency situations, including an act of terrorism or related criminal activity. You state the submitted information “contains both strategic and tactical information that may be employed in an all-hazards environment, including terrorism or related criminal activity.” Further, you state the submitted information includes information related to the county’s emergency management staffing requirements and a compilation of the contact information for the county’s emergency management response staff. You explain the submitted emergency management plan “provides a framework for more specific functional annexes that describe, in detail, who does what, when, and how.” You argue disclosure of any portion of the plan would compromise the county’s ability to effectively respond to an emergency situation and would provide those who would commit an act of terrorism or related criminal activity with the information necessary to facilitate their acts or to assist them in avoiding apprehension. Based on your representations and our review, we find you have established 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. Therefore, we find the submitted information is confidential under

section 418.176 of the Government Code and must be withheld under section 552.101 of the Government Code on that basis.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.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/som

Ref: ID# 494823

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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