



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 31, 2013

Ms. Renee Ann Mueller
County Attorney
Washington County Attorney's Office
100 East Main, Suite 200
Brenham, Texas 77833

OR2013-13237

Dear Ms. Mueller:

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# 495664.

The Washington County Emergency Management Office (the "county") received a request for (1) a list of members of the county's local emergency planning committee (the "LEPC"), (2) the most recent bylaws of the LEPC, (3) the schedule and a detailed description of any training exercises of the LEPC, (4) a copy of the county's most recent emergency management plan, (5) grant applications and a list of all grants received by the LEPC for each fiscal year, and (6) the LEPC's budget and expenses for each fiscal year. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted information responsive to item four. Therefore, to the extent information responsive to the remainder of the request existed at the time the county received the request for information, we assume you have released it to the requestor. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301 (a), .302; Open Records Decision No. 664 (2000) (noting if governmental body

¹Although you do not explicitly raise section 552.101 of the Government Code in your brief, based on your arguments, we understand you to raise this section.

concludes no exceptions apply to requested information, it must release information as soon as possible under circumstances).

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. Section 552.101 encompasses information other statutes make confidential, such as 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; 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 information described in section 418.176 is exactly what is contained in the county's emergency management plan. Based on your representations and our review, we find the county has established that 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, 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.

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/tch

Ref: ID# 495664

Enc. Submitted documents

c: Requestor
(w/o enclosures)