



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 9, 2013

Mr. James G. Nolan
Associate Deputy General Counsel
Open Records Division
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2013-15673

Dear Mr. Nolan:

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# 498989 (CPA ORTS# 9269713765).

The Texas Comptroller of Public Accounts (the "comptroller's office") received a request for specified fields of information pertaining to cyber incidents, breaches, or threats since January 1, 2009. The comptroller's office claims the requested information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

Initially, you inform us some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2013-15224 (2013). In Open Records Letter No. 2013-15224, we determined the comptroller's office must withhold the requested information under section 552.139 of the Government Code. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, to the extent the information in the

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

current request is identical to the information previously requested and ruled upon by this office, we conclude the comptroller's office must continue to rely on Open Records Letter No. 2013-15224 as a previous determination and withhold the information in accordance with that ruling. *See* Open Records Decision No. 673 at 7-8 (2001). To the extent the submitted information is not subject to Open Records Letter No. 2013-15224, we will address your arguments against its disclosure.

Section 552.139 of the Government Code provides, in pertinent part, the following:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report; [and]

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(1)-(2). Section 2059.055(b) of the Government Code reads as follows:

Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency;

(2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or

(3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

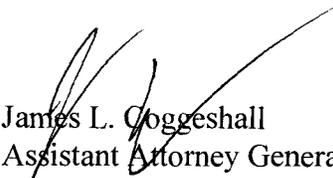
Id. § 2059.055(b). You state the submitted information consists of Monthly Incident Report Status reports sent by the comptroller's office to the Department of Information Resources. See 1 T.A.C. § 202.26(d) (providing that summary reports of security related events shall be sent to the Department of Information Resources on a monthly basis). You state these reports are "assessments of [the comptroller's office's] security network, and they provide information as to the extent to which [the comptroller's office's] electronically stored information may be vulnerable to alteration, damage, erasure, or inappropriate use." You further state release of this information "is likely to create additional security risks to [the comptroller's office's] network and associated IT resources[.]" Based on your representations and our review, we find the comptroller's office must withhold the submitted information under section 552.139 of the Government Code.²

To conclude, to the extent the information in the current request is identical to the information previously requested and ruled upon by this office, we conclude the comptroller's office must continue to rely on Open Records Letter No. 2013-15224 as a previous determination and withhold the information in accordance with that ruling. To the extent the submitted information is not subject to Open Records Letter No. 2013-15224, the comptroller's office must withhold the submitted information under section 552.139 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 498989

Enc. Submitted documents

c: Requestor
(w/o enclosures)