



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 26, 2016

Ms. H. Karen Fastenau Meisel
General Counsel
Texas Veterans Commission
P.O. Box 12277
Austin, Texas 78711-2277

OR2016-16801

Dear Ms. Meisel:

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# 619914 (PIA# 2016-08).

The Texas Veterans Commission (the "commission") received a request for specified contracts and purchase order documents. You state you will release some information. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.139 of the Government Code. You also state you notified the Texas Department of Information Resources, the Council on Competitive Government, Canon USA, Inc., Solid Border, Inc., Neubus, Inc., and Xerox Corporation of the request for information and of each party's right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code §§ 552.304; .305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the submitted arguments and reviewed the submitted information.

Initially, we note some of the requested information may have been the subject of a previous ruling from this office. In Open Records Letter No. 2016-15898 (2016), this office ruled the commission must release the submitted information. We have no indication the law, facts, or circumstances upon which the prior ruling was based have changed. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon, the commission must continue to rely on Open Records Letter No. 2016-15898

as a previous determination, and release the previously ruled upon information in accordance with it. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information in the current request is not encompassed by the prior ruling, we will consider the exception you raise.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from any of the third parties explaining why their information should not be released. Thus, we have no basis to conclude any of the third parties have a protected proprietary interest in the submitted information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the commission may not withhold any of the submitted information on the basis of any proprietary interest the third parties may have in the information.

Section 552.139 of the Government Code provides:

(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 of the Government Code provides in pertinent part:

(b) 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 contains unique identifiers assigned to the commission “in connection with its subscription to the Barracuda web security service.” You further state “these number are used in various combinations to gain access to Barracuda . . . and to access specific devices on the [c]ommission’s network” and release of these access numbers “could compromise the IT security of the [c]ommission’s systems.” Accordingly, the commission must withhold the access numbers it has marked under section 552.139(a) of the Government Code.¹

In summary, to the extent the requested information is identical to the information previously requested and ruled upon, the commission must continue to rely on Open Records Letter No. 2016-15898 as a previous determination, and release the previously ruled upon information in accordance with that ruling. The commission must withhold the access numbers it has marked under section 552.139(a) of the Government Code. The commission must release the remaining information.

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/>

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

[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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/dls

Ref: ID# 619914

Enc. Submitted documents

c: Requestor
(w/o enclosures)

6 Third Parties
(w/o enclosures)