



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

September 21, 2016

Mr. Les Trobman  
General Counsel  
Texas Water Development Board  
P.O. Box 13231  
Austin, Texas 78711-3231

OR2016-21290

Dear Mr. Trobman:

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# 627946.

The Texas Water Development Board (the "board") received a request for information regarding drainage or flooding in Hidalgo County, including information pertaining to a specified project.<sup>1</sup> You state the board has released some information. 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 representative sample of information.<sup>2</sup>

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<sup>1</sup>We note the board sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup>We 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 that those records contain substantially different types of information than that submitted to this office.

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 that is made confidential by other statutes. You raise section 552.101 in conjunction with section 418.181 of the Government Code. Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the “HSA”). Section 418.181 provides:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

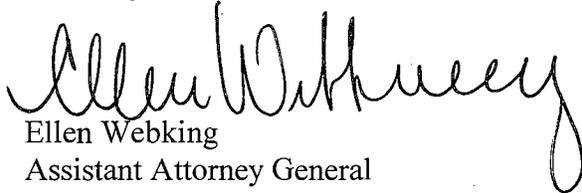
*Id.* § 418.181. The fact that information may relate to a governmental body’s security measures does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation of a statute’s key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under section 418.181 must be accompanied by an adequate explanation of 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 includes engineering drawings that identify the specific location and technical details of the Raymondville Drain Project, including locations and intricate details of existing critical infrastructure. You state the “information contains sensitive security information regarding the exact location, dimensions, and other critical characteristics of the drainage canal system and utility lines, bridges, and pipelines.” You assert the information identifies “the areas of the system most vulnerable to service disruption.” Thus, you argue the disclosure of the submitted information “may expose this critical infrastructure to possible acts of terrorism by allowing a potential terrorist to destroy or contaminate the drainage system, thereby causing damage and putting public health and safety at risk.” We agree the drain project is critical infrastructure. *See generally id.* § 421.001 (defining “critical infrastructure” to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation”). Based on your representations and our review, we agree the submitted information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, the submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 418.181 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](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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/bw

Ref: ID# 627946

Enc. Submitted documents

c: Requestor  
(w/o enclosures)