



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 11, 2016

Mr. John P. Beauchamp
General Counsel
Texas Commission on Law Enforcement
6330 East Highway, Suite 290
Austin, Texas 78723-1035

OR2016-22779

Dear Mr. Beauchamp:

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# 629922.

The Texas Commission on Law Enforcement (the "commission") received a request for all records related to the structure of a specified database.¹ You state you will release some information to the requestor. You claim the submitted information is not subject to the Act. You also claim the submitted information is excepted from disclosure under section 552.139 of the Government Code. Additionally, you notified The Productivity Center, Inc. ("Productivity") of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(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 received

¹We note the requestor modified his request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purposes of clarifying or narrowing request). *See also* *City of Dallas v. Abbott*, 304 S. W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

comments from Productivity. We have considered the submitted arguments and reviewed the submitted representative sample of information.²

Initially, we note some of the requested information at issue may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-04799 (2016). In that ruling, we determined that the submitted information does not constitute public information subject to the Act and need not be released in response to the request for information. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the requested information is identical to the information at issue in that ruling, we conclude the commission must rely on Open Records Letter No. 2016-04799 as a previous determination. *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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the requested information is not encompassed by the prior ruling, we will consider the submitted arguments.

You assert the submitted information is not subject to the Act. Section 552.002(a) of the Government Code defines “public information” as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

²We 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.

Gov't Code § 552.002(a). In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. The requestor specifically seeks information used by the commission to maintain data. You assert, and we agree, the submitted information does not have significance other than its use as a tool for the maintenance, manipulation, or protection of public property. Upon review, we find the submitted information does not have significance other than its use as a tool for the maintenance, manipulation, or protection of public property. Thus, the submitted information does not constitute public information subject to the Act and need not be released in response to the request for information.³

In summary, to the extent the requested information is identical to the information previously requested and ruled upon by this office, the commission must rely on Open Records Letter No. 2016-04799 as a previous determination. To the extent the submitted information is not encompassed by the prior ruling, it does not constitute public information subject to the Act and need not be released in response to the request for 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/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,



Kavid Singh
Assistant Attorney General
Open Records Division

KVS/bhf

³As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

Ref: ID# 629922

Enc. Submitted documents

c: Requestor
(w/o enclosures)