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Jane Nelson
Secretary of State

February 3, 2026

Office of the Attorney General
Open Records Division
1801 Congress Avenue
Austin, Texas 78701

Via Hand Delivery

Re: Clarified request for records, received: December 2, 2025 (SOS PIR No. 25-0911)

Dear General Paxton:

On September 9, 2025, the Office of the Texas Secretary of State ("Office") received a written request for information from Chloe Dennison (the "Requestor") under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"). On September 23, 2025, we asked the Requestor to clarify certain items in her initial request. The Office received a clarified request on behalf of the Requestor on December 2, 2025 (the "December 2 Request"). On December 16, 2025, the Office sent the Requestor a cost estimate for providing copies of public information responsive to the December 2 Request. On January 9, 2026, the Office received the Requestor's payment of the estimated costs via credit card through the Office's online payment portal.

Copies of the Requestor's September 9 request, the Office's September 23 letter, the Requestor's December 2 Request, the Office's December 16 cost estimate, and our January 9 email acknowledging receipt of the payment are attached as Exhibit A. A statement regarding the date of receipt is attached as Exhibit B.[1] I hand-delivered this letter to the Open Records Division on February 3, 2026.

The December 2 Request seeks records related to the State of Texas's voter list maintenance activities. *See* Exhibit A. We intend to produce some responsive information to the Requestor today and provide additional documents, on a rolling basis, by June 5, 2026. The Office asserts

[1] January 19, 2026 (Martin Luther King, Jr. Day) is designated as a national holiday under Section 662.003(a) of the Texas Government Code. The Office's chief administrative officer designated January 26, 2026 as a nonbusiness day for the Office pursuant to Section 552.0031(f) of the Texas Government Code. These days thus do not qualify as business days under the Public Information Act. *See* Tex. Gov't Code § 552.0031(a)(2), (f). Therefore, the 15th business day from the date that the Office received the Requestor's payment for the December 2 Request is today, February 3, 2026. *See* Tex. Gov't Code § 552.263(e) ("For purposes of Subchapters F and G, a request for a copy of public information is considered to have been received by a governmental body on the date the governmental body receives the deposit or bond for payment of anticipated costs or unpaid amounts if the governmental body's officer for public information or the officer's agent requires a deposit or bond in accordance with this section.").

that other information responsive to the December 2 Request is excepted from public disclosure under Sections 552.101, 552.107, 552.111, and 552.139 of the Texas Government Code.[2] Thus, we are requesting a ruling regarding the release of these records.[3]

SECTION 552.107 OF THE TEXAS GOVERNMENT CODE

The Office contends that certain information responsive to the December 2 Request should be excepted from public disclosure pursuant to Section 552.107 of the Texas Government Code. Section 552.107 provides that "[i]nformation is excepted from the requirements of Section 552.021 if: (1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct; or (2) a court by order has prohibited disclosure of the information." Tex. Gov't Code § 552.107(1).

Relevant here, Texas Rule of Evidence 503 encompasses the attorney-client privilege. The Attorney General has determined that "information that is protected under Texas Rule of Evidence 503 is excepted from disclosure under section 552.107(1)." Open Records Decision No. 676 at 4 (2002). Rule 503(b)(1) provides:

> A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to facilitate the rendition of professional legal services to the client:
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> (A) between the client or the client's representative and the client's lawyer or the lawyer's representative;
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> (B) between the client's lawyer and the lawyer's representative;
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> (C) by the client, the client's representative, the client's lawyer, or the lawyer's representative to a lawyer representing another party in a pending action or that lawyer's representative, if the communications concern a matter of common interest in the pending action;
>
> (D) between the client's representatives or between the client and the client's representative; or
>
> (E) among lawyers and their representatives representing the same client.

Tex. R. Evid. 503(b)(1). Rule 503 further provides that "[a] communication is 'confidential' if not intended to be disclosed to third persons other than those: (A) to whom disclosure is made to further the rendition of professional legal services to the client; or (B) reasonably necessary to transmit the communication." *Id.* R. 503(a)(5). So, to withhold information under Section 552.107 as subject to attorney-client privilege, the governmental body must: (1) show that the

[2] The responsive documents also contain information that is protected from disclosure under Section 552.147 of the Texas Government Code. *See* Tex. Gov't Code § 552.147 (social security number of living person). The Office is authorized to withhold such information without requesting a ruling from the attorney general. *Id.* § 552.147(b). In addition, the responsive information includes certain computer information, such as file names, network file locations, and other computer programming information, that is not subject to the Public Information Act because it "has no other significance than its use as a tool for the maintenance, manipulation, or protection of public property." Open Records Decision No. 581 at 7 (1990); *accord* OR2025-039752 at 2 (file names, network file locations, and other information); OR2025-036848 at 1-2 (same). As such, this information will be redacted from the materials provided to the Requestor, as reflected by the Office's notations on the documents in the enclosed representative sample. *See* Exhibit C.

[3] Some of the information responsive to the December 2 Request is the same information on which the Secretary of State's office has sought an open records ruling in SOS PIR No. 25-1201 (OR-26-002100-RR), which remains pending before the Open Records Division as of this date.

document is a communication transmitted between privileged parties or reveals a confidential communication; (2) identify the parties involved in the communication; and (3) show that the communication is confidential by explaining that it was not intended to be disclosed to third persons and that it was made in furtherance of the rendition of professional legal services to the governmental body. *See* Open Records Decision No. 676 at 6-8; *accord* OR2025-029900 at 3-4; OR2025-029374 at 2-3; OR2025-019139 at 3.

The information at issue includes internal communications and draft documents exchanged among the undersigned General Counsel, other Secretary of State attorneys, and non-attorney employees of the Office. Specifically, the responsive information includes communications reflecting the provision—or a request for the provision—of legal advice by the Office's General Counsel and other staff attorneys (such as Christina Adkins, Heidi Martinez, Chuck Pinney, and Sara Braun) regarding the evaluation of the State's voter registration list maintenance activities; the drafting of Secretary of State guidance to election officials, election forms, presentations, press releases, litigation materials, correspondence, and other documents pertaining to agency operations; proposed responses to inquiries from election officials, the news media, and other individuals or entities; the Office's development and implementation of memoranda of understanding governing the sharing of voter registration information with other states; and the analysis of federal and state laws and procedures related to voter registration and election administration.

The responsive communications were made in furtherance of the rendition of professional legal services to the Office. The communications were not intended to be disclosed to third persons; not have such communications been disclosed publicly. Each of these communications satisfies the requirements of Texas Rule of Evidence 503 and is thus entitled to protection under Section 552.107(1). *See, e.g.*, OR2025-029900 at 3-4; OR2025-029374 at 2-3; OR2025-019139 at 3; OR2025-016735 at 2-3.

Exhibit C contains a representative sample of the responsive information that the Office asserts is excepted from public disclosure pursuant to Section 552.107, as reflected by the Office's notations on the documents.

SECTION 552.111 OF THE TEXAS GOVERNMENT CODE

Some of the responsive information should be excepted from public disclosure pursuant to Section 552.111 of the Texas Government Code.

Section 552.111 of the Texas Government Code encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 1 (1993). This privilege excepts from disclosure interagency or intraagency memoranda and certain communications "that would not be available by law to a party in litigation with the agency." Tex. Gov't Code § 552.111. The purpose of Section 552.111 is "to protect advice and opinions on policy matters and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 412 (Tex. App.—Austin 1992, no writ) (citing *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, writ ref'd n.r.e.)).[4] The Attorney General has concluded that Section 552.111 protects preliminary drafts of a document intended for public release in its final form because a draft "necessarily represents the advice, opinion, and recommendation of the drafter as to the form and content of the final

[4] *Accord City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 361, 364 (Tex. 2000); *Arlington Indep. Sch. Dist. v. Tex. Att'y Gen.*, 37 S.W.3d 152, 158 (Tex. App.—Austin 2001, no pet.); *Lett v. Klein Indep. Sch. Dist.*, 917 S.W.2d 455, 456-57 (Tex. App.—Houston [14th Dist.] 1996, writ denied); Open Records Decision No. 615 at 5.

document." Open Records Decision No. 559 at 2 (1990). In addition, Section 552.111 extends to "internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body." OR2025-029374 at 3 (citing Open Records Decision No. 615 at 5); *accord* OR2025-019139 at 4; OR2025-008985 at 3. And if factual information "is so inextricably intertwined with material involving advice, opinions and recommendation as to make separation [of the factual data] impractical," the factual information also may be withheld under Section 552.111. Open Records Decision No. 313 at 3 (1982); *accord* OR2025-029374 at 3; OR2025-019139 at 4; OR2025-008985 at 3. Moreover, Section 552.111 may protect communications between a governmental body and a third party—such as a consultant or other governmental entity—with whom there is a privity of interest. *See* Open Records Decision No. 561 at 9 (1990) (communications between parties with a "privity of interest or common deliberative process" may be exempted under Section 552.111); OR2025-031548 at 5; OR2025-029374 at 4.

The responsive information includes draft documents and internal discussions among Office employees containing "advice, recommendations, [and] opinions" reflecting the Office's "policymaking processes." *See* OR2025-029374 at 3. The documents relate to matters such as the preparation and review of guidance to election officials, agency presentations, reports, news releases, correspondence, and other draft documents before their issuance to the general public; the evaluation of the State's voter registration list maintenance efforts and other agency operations; internal discussions regarding the development and implementation of data-sharing agreements with other states; and the application of statutory provisions involving voter registration and election administration. The responsive records also contain communications between staff of the Secretary of State's office and the vendor (Civix) with whom the Secretary of State has contracted to maintain the statewide voter registration system, reflecting opinions regarding draft documents before the information was released to the public.

Each of the records marked for protection under Section 552.111 contains "advice, recommendations, opinions, and other material reflecting the [Office's] policymaking processes." OR2025-029374 at 3; OR2025-019139 at 4. The communications do not relate to "routine internal administrative or personnel matters." OR2025-029374 at 3. And given the nature of the Office's contractual relationship with Civix on the matters at issue in the documents, there is a privity of interest between the parties to the marked third-party communications, thus entitling them to protection under Section 552.111. *See* Open Records Decision No. 561 at 9; OR2025-029374 at 3-4; OR2024-040095 at 2.

Exhibit C contains a representative sample of the responsive information that the Office asserts is excepted from public disclosure pursuant to Section 552.111, as reflected by the Office's notations on the documents.

SECTION 552.139 OF THE TEXAS GOVERNMENT CODE

The Office also asserts that certain information covered by the December 2 Request should be excepted from public disclosure pursuant to Section 552.139 of the Texas Government Code. In relevant part, Section 552.139 protects "information that relates to computer network security, to restricted information under Section 2059.055, or to the design, operation, or defense of a computer network." Tex. Gov't Code § 552.139(a). Section 2059.055 of the Government Code, in turn, provides that "[n]etwork security information is confidential under this section if the information is . . . related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a governmental entity." *Id.* § 2059.055(b).

The responsive records include Secretary of State training manuals provided to county election officials regarding the entry of information in, and the collection of data from, the statewide voter registration system (often referred to as the "TEAM system"). The Office places these technical materials on a secure, restricted site for viewing by the counties. Each manual includes a disclaimer indicating that the information is privileged and confidential.[5] Relatedly, the responsive information encompasses presentations, reports, correspondence, and other materials that contain screenshots of the TEAM system; navigational links, system codes, and similar TEAM information; detailed procedures for the transmission and processing of voter registration information exchanged between the Office and other states pursuant to data-sharing agreements; and other sensitive details reflecting the development and operation of the TEAM system. This information relates intricately to the TEAM system's design and operation, and the public disclosure of such information could subject the TEAM system to unauthorized access. *See* Tex. Gov't Code § 552.139(a); *e.g.*, OR2025-029374 at 4-5 (finding that the Secretary of State must withhold similar information under Section 552.139); OR2025-016735 at 3-4 (same).[6]

Exhibit C contains a representative sample of the responsive information that the Office asserts is excepted from public disclosure pursuant to Section 552.139, as reflected by the Office's notations on the documents.

SECTION 552.101 OF THE TEXAS GOVERNMENT CODE

In addition, a portion of the responsive information is exempt from public disclosure under Section 552.101 of the Texas Government Code. This provision excepts information that is "considered to be confidential by law, either constitutional, statutory, or by judicial decision." There are two separate categories of responsive information entitled to protection under Section 552.101.

First, some of the responsive information relates to matters that the Secretary of State's office is reviewing in accordance with Section 31.006 of the Texas Election Code. As of the date that we received the December 2 Request, the Office was evaluating the information pursuant to Section 31.006(a) and had not determined whether these matters warranted an investigation. Section 31.006 provides that:

> (a) If, after receiving or discovering information indicating that criminal conduct in connection with an election has occurred, the secretary of state determines that there is reasonable cause to suspect that criminal conduct occurred, the secretary shall promptly refer the information to the attorney general. The secretary shall deliver to the attorney general all pertinent documents and information in the secretary's possession.
>
> (b) The documents and information submitted under Subsection (a) are not considered public information until: (1) the secretary of state makes a determination that the information received does not warrant an investigation; or

[5] Likewise, users of the statewide voter registration database sign a security acknowledgement and nondisclosure agreement each time they access the TEAM system, certifying, among other things, that "[t]he training manuals . . . contain information that is privileged and confidential," that the information "is intended only for the use of Texas County Election Officials," and that the manuals (like those encompassed by the December 2 Request) will not be shared with any unauthorized parties.

[6] The TEAM system contains highly sensitive personal information of over 18 million registered voters, including dates of birth, driver's license numbers, and social security numbers.

(2) if referred to the attorney general, the attorney general has completed the investigation or has made a determination that the information referred does not warrant an investigation.

The Open Records Division has concluded that election complaints and similar information that are being evaluated by the Secretary of State's office at the time it receives a request—like some of the information covered by the instant inquiry—must be withheld under Section 552.101 of the Texas Government Code in conjunction with Section 31.006(b) of the Texas Election Code. *See, e.g.*, OR2025-044040; OR2025-037864 at 1-2; OR2025-036848 at 2-3; OR2025-031548 at 2-3. Here, certain information sought in the December 2 Request should be similarly excepted from public disclosure under Section 552.101.

Second, the responsive information includes dates of birth of members of the public. In *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.), the court determined that citizens' dates of birth are protected by common law privacy and thus can be withheld under Section 552.101 of the Texas Government Code. *See, e.g.*, OR2025-005115 (dates of birth on records maintained by the Secretary of State's office must be withheld from disclosure under Section 552.101); OR2024-013969 (same).

Exhibit C contains a representative sample of the responsive information that the Office asserts is excepted from public disclosure pursuant to Section 552.101, as reflected by the Office's notations on the documents.

For the reasons stated above, the Office asserts that certain information responsive to the December 2 Request is excepted from disclosure under the Public Information Act. Accordingly, we are requesting a ruling from the Attorney General regarding the release of these records. A representative sample of the responsive information that the Office seeks to withhold is attached as Exhibit C.

If you have any questions or need additional information from our office regarding this request, please contact me at (512) 463-5770.

Sincerely,



Adam Bitter
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AB/jw

Enclosures

Cc: Requestor (via email) without Exhibits