KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 2, 2026

Mr. Adam Bitter
General Counsel
Office of the Secretary of State
P.O. Box 12887
Austin, Texas 78711-2887

OR2026-013676

Dear Mr. Bitter:

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# 26-010182 (SOS PIR No. 25-0911).

The Office of the Secretary of State (the "secretary's office") received a request for information pertaining to voter registration.[1] You state you will release some information to the requestor. You also state you will redact social security numbers under section 552.147(b) of the Government Code.[2] You claim some of the submitted information is not subject to the Act. You also claim some of the submitted information is excepted from

[1] You state, and provide documentation demonstrating, the secretary's office sought and received clarification of the information requested. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (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). You also state the secretary's office sent the requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code, and the requestor accepted the cost estimate. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You inform us the secretary's office received the required deposit on January 9, 2026. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

[2] Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

disclosure under sections 552.101, 552.107, 552.111, and 552.139 of the Government Code. We have considered the submitted arguments and reviewed the submitted representative sample of information.[3]

Initially, the secretary's office asserts some of the submitted information is not "public information" subject to disclosure under 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; or
>
> (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.

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 secretary's office states the information it marked consists of computer programming information. Thus, the secretary's office states the information at issue has no other significance other than its use as a tool for the maintenance, manipulation, or protection of public information. Based upon these representations and our review, we find this information is not public information as defined by section 552.002 of the Government Code. Accordingly, we conclude the information the secretary's office marked is not subject to the Act and need not be released to the requestor.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses section 31.006 of the Election Code. Section 31.006 of the Election Code provides the following:

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[3] 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 those records contain substantially different types of information than that submitted to this office.

> (a) If, after receiving or discovering information indicating that criminal conduct in connection with an election has occurred, the [secretary's office] determines that there is reasonable cause to suspect that criminal conduct occurred, the secretary shall promptly refer the information to the [Office of the Attorney General ("OAG")]. The secretary shall deliver to the [OAG] 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's office] makes a determination that the information received does not warrant an investigation; or
> >
> > (2) if referred to the [OAG], the [OAG] has completed the investigation or has made a determination that the information referred does not warrant an investigation.

Elec. Code § 31.006. You state some of the information at issue pertains to election complaints. You also state the secretary's office was still evaluating the complaints at issue at the time of the request and had not made any determination regarding whether the complaints did or did not warrant an investigation. Based upon your representations and our review, we agree the information at issue is not considered public information under section 31.006(b). Accordingly, the secretary's office must withhold the information it marked under section 552.101 of the Government Code in conjunction with section 31.006(b) of the Election Code.[4]

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. *See* Gov't Code § 552.107(1). When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made "to facilitate the rendition of professional legal services" to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Tex. Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in a capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element. Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and

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

capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a *confidential* communication, *id.*, meaning it was "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*. 503(a)(5). Whether a communication meets this definition depends on the *intent* of the parties involved at the time the information was communicated. *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, orig. proceeding). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. Deshazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

The secretary's office states some of the remaining information at issue consists of communications between attorneys and employees of the secretary's office that were made for the purpose of providing legal services to the secretary's office. The secretary's office also states the communications were intended to be, and have remained, confidential. Based on these representations and our review, we find the information at issue consists of privileged attorney-client communications. Therefore, the secretary's office may withhold the information it marked under section 552.107(1) of the Government Code.[5]

Section 552.139 of the Government Code provides, in relevant part:

> (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.
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> (b) The following information is confidential:
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> > (1) a computer network vulnerability report;
> >
> > (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; [and]
> >
> > . . .

[5] As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

> (4) information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log.

Gov't Code § 552.139(a), (b)(1)-(2), (4). 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 governmental entity;
> >
> > (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 information you marked consists of materials relating to the statewide voter registration system (the "TEAM system"). You explain the information at issue contains "screenshots of the TEAM system; navigational links, codes, and similar TEAM information; and other sensitive details reflecting the operation of TEAM." You assert the information at issue "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." Upon review, we find the information at issue relates to computer network security or the design, operation, or defense of a computer network. Accordingly, the secretary of state's office must withhold the information it marked under section 552.139 of the Government Code.[6]

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).[7] *Id.* § 552.137(a)-(c). Section 552.137 is not applicable to an institutional e-mail address, an Internet website address, an e-mail address of a person who has a contractual relationship with a governmental body, an e-mail address maintained by a governmental entity for one of its officials, or a personal e-mail address belonging to a governor's office employee or official used to conduct official

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

[7] The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

government business. *See id.* § 552.137(c); *Austin Bulldog v. Leffingwell*, 490 S.W.3d 240 (Tex. App. —Austin 2016, no pet.) (holding personal e-mail addresses of government officials used to conduct official government business are not e-mail addresses of "members of the public" for purposes of Gov't Code § 552.137(a)). Accordingly, to the extent the e-mail addresses in the remaining information belong to members of the public and are not excluded by section 552.137(c) of the Government Code, the secretary's office must withhold all personal e-mail addresses under section 552.137 of the Government Code, unless the individuals to whom the e-mail addresses belong affirmatively consent to their release.

In summary, the information the secretary's office marked is not subject to the Act and need not be released to the requestor. The secretary's office must withhold the information it marked under section 552.101 of the Government Code in conjunction with section 31.006(b) of the Election Code. The secretary's office may withhold the information it marked under section 552.107(1) of the Government Code. The secretary of state's office must withhold the information it marked under section 552.139 of the Government Code. To the extent the e-mail addresses in the remaining information belong to members of the public and are not excluded by section 552.137(c) of the Government Code, the secretary's office must withhold all personal e-mail addresses under section 552.137 of the Government Code, unless the individuals to whom the e-mail addresses belong affirmatively consent to their release. The secretary's office 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 https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Ashtyn J. Gillie
Assistant Attorney General
Open Records Division

AJG/mo

Ref: ID# 26-010182

c: Requestors