



August 11, 2026

VIA ELECTRONIC FILING

Tamara Smith - Chief
Office of the Attorney General of Texas
Open Records Division
300 W. 15th Street
Austin, TX 78701

Re: ***Open Records Request for LCRA communications with various domains***

LCRA Open Records Request No. 2026-0277

Texas.gov Request ID: 66441248

Dear Ms. Smith:

On July 7, 2026, Lower Colorado River Authority (LCRA) received an open records request from Robert Montoya with Texas Scorecard for the communications of LCRA employees Kristian Koellner, Jim Travis, Jenna Adams and board members, with entities with specific domain names. On July 21, LCRA received a clarification request from Texas Scorecard, which provided a list of specific search terms, and narrowed the scope of domains from which the communications were sought. The original request and the clarified request are attached as **Exhibit A**.

LCRA initially asserted §§ 552.101, 552.104, 552.107, 552.110, 552.111 and 552.133 of the *Texas Public Information Act (the Act)*, Chapter 552 of the *Texas Government Code*. After further consideration and review, LCRA has determined that the requested information may be excepted from disclosure under §§ 552.101 and 552.111 of the Act. Pursuant to §552.301 of the *Texas Government Code*, LCRA is exercising its right to request an opinion from your office and declines to release certain information requested for the purpose of requesting an Attorney General decision.

Exhibits

Exhibit B-1: Email thread dated September 30, 2025, between employees of CPS Energy, Oncor, and LCRA TSC employees, including Kristian Koellner. The affiliation of the individuals in the email thread is identified by their respective email domains. The email thread is a representative sample of deliberative and confidential communications related to [REDACTED]

[REDACTED]

[REDACTED]

The type of information and communications represented in Exhibit B-1 are the type excepted from disclosure pursuant to Section 552.111 of the Act.

Exhibit B-2: Email dated March 5, 2025, between [REDACTED] and LCRA employees, including Kris Koellner, regarding estimated costs to expand the scope of the Permian Basin Reliability Plan 765-kV project [REDACTED]

[REDACTED] 1 2 3 [REDACTED] are considered ECEI critical infrastructure. The communications represented in Exhibit B-2 provide specific details regarding the planning, operation, and protection of critical grid infrastructure. Exhibit B-2 includes [REDACTED]

[REDACTED] Because they detail specific planned facility locations and operating characteristics, these communications reveal potential vulnerabilities related to the ERCOT transmission grid. The type of information and communications represented in Exhibit B-2 is excepted from disclosure pursuant to Section 552.101 and Chapters 421 and Chapter 418 of the Government Code.

In addition, Exhibit B-2 depicts deliberations [REDACTED] in the email discussion regarding [REDACTED]

The deliberations represented in Exhibit B-2 also discuss [REDACTED]

Therefore, the type of deliberations represented in Exhibit B-2 are excepted from disclosure pursuant to Section 552.111 of the Act.

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

Exhibit B-3: Email thread dated March 4 – 5, 2025, between employees of [REDACTED] and LCRA, including Kristian Koellner, regarding expanding the scope of the Permian Basin Reliability Plan 765-kV project [REDACTED]. [REDACTED] are considered ECEI critical infrastructure. The communications represented in Exhibit B-3 provide specific details regarding the planning, operation, and protection of critical grid infrastructure. Because they detail specific planned facility locations and operating characteristics, these communications reveal potential vulnerabilities related to the ERCOT transmission grid. The type of information and communications represented in Exhibit B-3 is excepted from disclosure pursuant to Section 552.101 and Chapters 421 and Chapter 418 of the Government Code. In addition, Exhibit B-3 depict deliberations [REDACTED] the email discussion regarding [REDACTED].

In addition, the deliberations represented in Exhibit B-3 also discuss [REDACTED]. Therefore, the type of deliberations represented in Exhibit B-3 are excepted from disclosure pursuant to Section 552.111 of the Act.

Exceptions

Section 552.111 - Inter-agency, Intra-agency Memoranda and Deliberative Processes

Section 551.111 excepts from required public disclosure information any “interagency or intra-agency memorandum or letter that would not be available by law to a party in litigation with the agency...” This includes the deliberative process privilege and work product privilege.

A. Deliberative Process Exception

Section 552.111 has been read to incorporate the deliberative process privilege into the Public Information Act for intraagency and interagency communications.⁴ The deliberative process privilege, as incorporated into the Public Information Act, protects from disclosure intraagency and interagency communications consisting of advice, opinion or recommendations on policymaking matters of the governmental body at

⁴ *City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 360 (Tex. 2000); *Lett v. Klein Indep. Sch. Dist.*, 917 S.W.2d 455, 456 (Tex. App.—Houston [14th Dist.] 1996, writ denied); *Tex. Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 412–13 (Tex. App.—Austin 1992, no writ); Open Records Decision No. 615 at 5 (1993).

issue.⁵ The purpose of withholding advice, opinion or recommendations under section 552.111 is “to encourage frank and open discussion within the agency in connection with its decision-making processes” pertaining to policy matters.⁶ Communications, such as those represented in Exhibits B-1 – B-3 represent the deliberations, analyses, edits, and comments of [REDACTED]

As described above, Exhibit B-1 is an email exchange between [REDACTED], LCRA employees, including Kristian Koeller, and [REDACTED]

[REDACTED]. The type of discussions and deliberations represented in Exhibit B-1 reflect [REDACTED]

Exhibit B-2 represents deliberations between LCRA TSC [REDACTED]

[REDACTED] Exhibit B-2 also depicts deliberations by the 765-kV TSP providers in the email discussion regarding [REDACTED]

[REDACTED] The deliberations represented in Exhibit B-2 also discuss [REDACTED]

⁵ *City of Garland v. Dallas Morning News*, 22 S.W. 3d at 361, 364 (Tex. 2000); *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152, 158 (Tex. App. – Austin 2001, no pet.); Open Records Decision No. 615 at 5 (1993).

⁶ *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, writ ref’d n.r.e.); see also *City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 361 (Tex. 2000); *Lett v. Klein Indep. Sch. Dist.*, 917 S.W.2d 455, 456, 457 (Tex. App.—Houston [14th Dist.] 1996, writ denied); *Tex. Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 412 (Tex. App.—Austin 1992, no writ).

[REDACTED]. The deliberations represented in Exhibit B-3 also discuss [REDACTED]
[REDACTED]

Based on the discussions above, the type of discussions and deliberations represented and reflected in Exhibits B-1, B-2 and B-3 are the type of documents and communications that are excepted from disclosure pursuant to § 552.111 of the Act.

Section 552.101 Exception – Information Requested Confidential Under Other Law

Section 552.101 excepts information from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

This section makes clear that the Act does not mandate the disclosure of information that other laws require be kept confidential. §552.352(a) states: “A person commits an offense if the person distributes information considered confidential under the terms of this chapter.” A violation under §552.352 is a misdemeanor constituting official misconduct.⁷ In its discretion, a governmental body may release to the public information protected under the Act’s exceptions to disclosure but not deemed confidential by law.⁸ On the other hand, a governmental body has no discretion to release information deemed confidential by law.⁹ Due to the fact that the Act prohibits the release of confidential information and because the improper release of confidential information constitutes a misdemeanor, the attorney general may raise §552.101 on behalf of a governmental body. However, the attorney general, ordinarily, will not raise other exceptions that a governmental body has failed to claim.¹⁰

By providing that all information a governmental body collects, assembles, or maintains is public unless expressly excepted from disclosure, the Act prevents a governmental body from making an enforceable promise to keep information confidential unless the governmental body is authorized by law to do so.¹¹ Thus, a governmental body may rely on its promise of confidentiality to withhold information from disclosure only if the governmental body has specific statutory authority to make such a promise. Unless a governmental body is explicitly authorized to make an enforceable promise to keep

⁷ Gov’t Code §552.352(b), (c).

⁸ *Id.* §552.007; see *Dominguez v. Gilbert*, 48 S.W.3d 789, 793 (Tex. App. – Austin 2001, no pet.).

⁹ See Gov’t Code §552.007; *Dominguez*, 48 S.W. 3d at 793. But see discussion of informer’s privilege beginning on page 76 of the 2006 Public Information Handbook.

¹⁰ See Open Records Decision Nos. 445 at 3 (1987), 325 at 1 (1982).

¹¹ Attorney General Opinion H-258 at 3 (1974); see Attorney General Opinions JM-672 at 1-2 (1987), JM-37 at 2 (1983); Open Records Decision Nos. 585 at 2 (1991), 514 at 1 (1988), 55A at 2 (1975).

information confidential, it may not make such a promise in a contract¹² or a settlement agreement.¹³ In addition, a governmental body may not pass an ordinance or rule purporting to make certain information confidential unless the governmental body is statutorily authorized to do so.¹⁴

Critical Infrastructure – Homeland Security

Section 552.101 states that “[I]nformation is excepted from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 418.181, Government Code, relating to *confidentiality of certain information relating to critical infrastructure*, makes confidential documents or portions of documents if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.”

The Legislature has demonstrated its intent to protect certain critical infrastructure by adding Chapter 421, Homeland Security, and §§ 418.176–418.183, Subchapter H, Chapter 418, to the Government Code. Section 421.002(a) of the Government Code authorizes the Governor of Texas to direct homeland security in Texas and to develop a statewide homeland security strategy that improves the state’s ability to: 1) detect and deter threats to homeland security; (2) respond to homeland security emergencies; and (3) recover from homeland security emergencies.

Section 421.002(a), Government Code, states that the Governor’s homeland security strategy shall coordinate homeland security activities among and between local, state, and federal agencies and the private sector and must include specific plans for... protecting critical infrastructure. Chapter 421 defines an “agency” to mean “any governmental entity.” “Governmental entity” is not defined in Chapter 418. However, it does define a “Local government entity” to mean a county, incorporated city, independent school district, public junior college district, emergency services district, *other special district*, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid. LCRA is a conservation and reclamation district that was created by the Texas Legislature in 1934 and qualifies as a special district. LCRA is a “local governmental entity” and, as such, is within the purview of the provisions of Chapters 418 and 421 of the Government Code. LCRA coordinates with the Governor’s office and other local, state and federal agencies in protecting its critical infrastructure assets. This includes coordination during times when terroristic threat alerts have been issued. It is necessary for LCRA to maintain

¹² See Attorney General Opinion JM-672 at 2 (1987); Open Records Decision No. 514 at 1 (1988).

¹³ See Open Records Decision No. 114 at 1 (1975).

¹⁴ See *Indus. Found v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); *Envoy Med. Sys. v. State*, 108 S.W. 3d 333,337 (Tex. App. – Austin 2003, no pet.); Open Records Decision No. 594 at 3 (1991).

alert status and take all necessary precautions to protect its critical infrastructures against those terroristic threats.

Section 418.181, Government Code, *Confidentiality of Certain Information Relating to Critical Infrastructure*, states that “[T]hose 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.” The Legislature has demonstrated its intent to provide governmental bodies, such as LCRA, with protections over information and documentation that, if released, would reveal vulnerabilities of the critical infrastructure asset and the systems that the governmental body has instituted to protect those assets.

“Critical infrastructure” is defined 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.” Exhibits B-2 and B-3 are emails between [REDACTED]

[REDACTED] The emails provide detailed analysis regarding [REDACTED] in the 765-kv Permian Basis Reliability Plan transmission line projects. [REDACTED]

As discussed above, Exhibit B-2 includes a spreadsheet [REDACTED]

[REDACTED] The spreadsheet [REDACTED]

Similarly, Exhibit B-3 discusses [REDACTED] The communications contain specific details regarding the planning, operation, and protection of critical grid infrastructure. Because they detail specific planned facility locations and operating characteristics, these communications reveal vulnerabilities related to the ERCOT electric power grid.

The type of information included and represented in Exhibits B-2 and B-3 describes and depicts critical details and vulnerabilities that can be used to plan and carry out a terrorist or criminal act, including the disruption or destruction of critical transmission and substation infrastructure and threatening the safety of the public in the area. Therefore, the type of information reflected and represented in Exhibits B-2 and B-3 is excepted from disclosure under § 552.101 and Chapters 421 and Chapter 418 of the Government Code.

Tamara Smith
Chief, Open Records Division
August 11, 2026
Page 8

Pursuant to § 552.301 of the Act, LCRA is exercising its right to request an opinion from your office and decline to release the requested information for the purpose of requesting an Attorney General decision. Accordingly, LCRA requests your decision under §§ 552.301(a), (b) and (e) of the Act.

Please do not hesitate to contact me at [REDACTED] if you should have any questions. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vic", followed by a stylized flourish.

Vic Ramirez
Sr. Associate General Counsel

cc: Texas Scorecard (via email: inquiries@texasscorecard.com) (redacted, w/o exhibits)