

J. Matthew Maguire, Jr.
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March 7, 2023

VIA EMAIL: [REDACTED]@USCGG.org
Marilyn Marks, Executive Director
Coalition for Good Governance

Re: Georgia Open Records Act Request to Dominion Voting Systems, Inc.

Dear Ms. Marks:

This constitutes the response of Dominion Voting Systems, Inc. (“Dominion”) to your February 20, 2023 Georgia Open Records Act (the “Act”) request communicated to our office on February 28, 2023.

As a preliminary matter, we are providing this response as a courtesy. The Act does not require a response from Dominion under these circumstances because it is not a “public agency” and the records requested are not “public records” as those terms are defined in O.C.G.A. § 50-18-70(b). *See also Corp. of Mercer Univ. v. Barrett & Farahany, LLP*, 271 Ga. App. 501, 503 (2005) (The Act “should not be construed broadly and in derogation of its express terms so as to bring private entities into the purview of the statute.”).

The documents you have requested from Dominion are not public records, but even if they were, they would be exempt from disclosure under the Act for several reasons. First, you are seeking communications between Dominion and the Secretary of State’s Office pertaining to an election management system. *See Smith v. DeKalb Cnty.*, 288 Ga. App. 574, 577 (2007) (election management system exempt under the Act because disclosure would present a security risk). *See also* O.C.G.A. § 50-18-72(a)(25)(A). If the election management system itself is exempt because it is a security risk, then communications between Dominion and the Secretary of State’s Office about alleged vulnerabilities in the election management system would likewise be exempt.

Additionally, Dominion is not in a position to determine if the records you are seeking relate to “any pending investigation or prosecution of criminal or unlawful activity” by the Georgia Secretary of State’s Office. *See* O.C.G.A. § 50-18-72(a)(4). Because the Georgia Secretary of State’s Office is the entity with legal standing to assert the exemptions for security and pending investigations, Dominion is unwilling to make any disclosures without the consent of the Georgia Secretary of State. *See, generally, Campaign for Accountability v. Consumer Credit Rsch. Found.*, 303 Ga. 828, 836 (2018) (“Parties with an interest in nondisclosure of public records pertaining to them may pursue



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a lawsuit to seek compliance with the ORA, which is expressly authorized by O.C.G.A. § 50-18-73(a).”).

Finally, some or all of the records you seek are exempt under O.C.G.A. § 50-18-72(a)(34) because they contain Dominion’s trade secrets.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JMM', with a long horizontal flourish extending to the right.

J. Matthew Maguire, Jr.

JMM/lc

cc: Lindsey Kurtz, Esq.
Bryan Tyson, Esq.
Carey Miller, Esq.
Vincent Russo, Esq.
Bruce Brown, Esq.