



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 7, 2012

Ms. Molly Cost  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2012-08763

Dear Ms. Cost:

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# 456139 (DPS PIR # 12-0941).

The Texas Department of Public Safety (the "department") received a request for information for a specified time period pertaining to the program "known as the 'Texas Individual Tornado Safe Room Rebate Program or 'Texas Tornado Mitigation Program'" and information for a specified time period pertaining to money received by the State of Texas from the Federal Emergency Management Agency ("FEMA") to run "the safe shelter program." You indicate the department has released some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 552a of title 5 of the United States Code, also known as the Federal Privacy Act. We note that this office has stated in numerous opinions that information in the possession of a governmental body of the State of Texas is not confidential or excepted from disclosure merely because the same information is or would be confidential in the hands of a federal agency. *See, e.g.*, Attorney General Opinion MW-95 (1979) (concluding that neither the federal Freedom of Information Act nor the federal Privacy Act applies to records held by state or local governmental bodies in Texas). However, this office has also held that section 552.101 requires a local

governmental entity that has obtained information from a federal agency to respect confidentiality imposed on the information by federal law. *See* Open Records Decision No. 561 (1990).

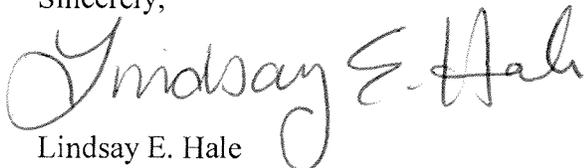
The Privacy Act provides in part “[n]o [federal] agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be” allowed by one of twelve enumerated exceptions. 5 U.S.C. § 552a(b).

You state the information at issue pertains to FEMA mitigation grants under the Hazard Mitigation Grant Program (the “HMGP”) and the Legislative Pre-Disaster Mitigation program (the “L-PDM”), which are federal benefit programs providing funding for mitigation activities. You state that the department has an agreement with FEMA to administer the HMGP and L-PDM. You explain the department received and maintains the requested information due to its participation in the HMGP and L-PDM and, pursuant to your agreement with FEMA, the department is required to maintain the privacy of this information pursuant to the Privacy Act. We therefore find that the submitted information is confidential pursuant to the Privacy Act. Release of the submitted information in response to the present request would not be a release in accordance with the exceptions to the Privacy Act. Therefore, the submitted information must be withheld under section 552.101 of the Government Code in conjunction with federal law.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/ag

Ref: ID# 456139

Enc. Submitted documents

c: Requestor  
(w/o enclosures)