



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 20, 2013

Ms. L. Carolyn Nivens  
Paralegal  
Counsel for the City of Friendswood  
Ross, Banks, May, Cron & Cavin, P.C.  
2 Riverway, Suite 700  
Houston, Texas 77056

OR2013-04630

Dear Ms. Nivens:

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# 481766.

The City of Friendswood (the "city"), which you represent, received a request for the list of homes recommended for buyout by the Federal Emergency Management Agency "FEMA" after the flood of 2001. You state you have released some information to the requestor. You claim some of 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

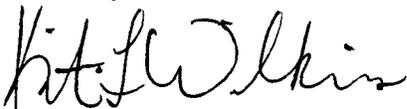
agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure would be" allowed by one of twelve enumerated exceptions. 5 U.S.C. § 552a(b).

You state the submitted information pertains to the Hazard Mitigation Grant Program (the "HMGP"), which is a federal benefit program. You state, pursuant to an agreement with FEMA, the city received and maintains the information at issue due to its participation in the HMGP. You argue the columns titled "Losses" within the submitted information are confidential pursuant to the Federal Privacy Act. You further state, pursuant to the city's agreement with FEMA, the city is obligated to maintain the privacy of this information pursuant to the Privacy Act. We therefore find that the information at issue is confidential pursuant to the Privacy Act. Release of the information at issue in response to the present request would not be a release in accordance with the exceptions to the Privacy Act. Therefore, the information at issue 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,



Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/bhf

Ref: ID# 481766

Enc. Submitted documents

c: Requestor  
(w/o enclosures)