



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.
The ruling and judgment can be viewed in PDF
format below.



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 27, 2015

Ms. Katie Anderson
Counsel for the Houston Housing Authority
Strasburger
901 Main Street, Suite 4400
Dallas, Texas 75202-3794

The ruling you have requested has been amended as a result of litigation and has been attached to this document.

OR2015-08021

Dear Ms. Anderson:

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# 561270.

The Houston Housing Authority (the "authority"), which you represent, received a request for information related to Section 8 vouchers, to include the addresses of all voucher holders administered by the authority and demographic information of the individuals served by the voucher program. You state the authority will release some information to the requestor upon payment of costs. You claim 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 representative sample of information.¹ We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments stating why information should or should not be released).

You claim the submitted information is confidential in its entirety under section 552a of title 5 of the United States Code, also known as the federal Privacy Act. The Privacy Act

¹We 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 that those records contain substantially different types of information than that submitted to this office.

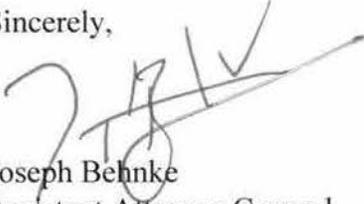
applies to an “agency,” which is defined as “any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency[.]” See 5 U.S.C. §§ 552(f)(1)(formerly 5 U.S.C. § 552(e)), 552a(a)(1) (referring to 5 U.S.C. § 552(e) for definition of “agency”). In this instance, we understand the information at issue was created and is maintained by the authority. Our office and the courts have stated the Privacy Act applies only to federal agencies and not to state or local agencies. See *St. Michael’s Convalescent Hosp. v. State of California*, 643 F.2d 1369, 1373 (9th Cir. 1981) (definition of agency under Privacy Act does not encompass state agencies or bodies); *Shields v. Shetler*, 682 F.Supp. 1172, 1176 (D. Colo. 1988) (Privacy Act does not apply to state agencies or bodies); *Davidson v. Georgia*, 622 F.2d 895, 897 (5th Cir.1980) (state governments are not subject to FOIA); Attorney General Opinion MW-95 (1979) (neither FOIA nor federal Privacy Act applies to records held by state or local governmental bodies in Texas). You assert, in this instance, the Privacy Act applies to the information because “[the authority] has entered into an [annual contributions contract] with HUD under which it operates systems of records on behalf of HUD for the purposes of . . . administering the housing choice voucher program.” The courts have opined, however, that neither the receipt of federal funds nor limited oversight by a federal entity convert state or local governmental bodies into agencies covered by the Privacy Act. See *St. Michael’s Convalescent Hosp.*, 643 F.2d at 1373-74; see also *United States v. Orleans*, 425 U.S. 807, 816 (1976) (stating federal regulations and contract provisions do not convert acts of local and state governmental bodies into federal governmental acts). This office has stated in numerous decisions 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 Open Records Decision Nos. 561 at 7 n.3 (1990) (federal authorities may apply confidentiality principles found in FOIA differently from way in which such principles are applied under the Act), 124 (1976) (fact information held by federal agency excepted under FOIA does not make same information excepted under the Act when held by Texas agency), 59 (1974). Upon review, we find you have failed to demonstrate the Privacy Act applies to the information at issue. Accordingly, no portion of the submitted information may be withheld under the Privacy Act. As you raise no further exceptions to disclosure, the submitted information must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'JB', with a large, sweeping flourish extending to the right.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 561270

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Filed in The District Court
of Travis County, Texas

JUL 08 2015 MYR

At 839 A M.
Velva L. Price, District Clerk

CAUSE NO. D-1-GN-15-001791

**HOUSTON HOUSING AUTHORITY, §
Plaintiff, §
vs. §
ATTORNEY GENERAL OF TEXAS, §
Defendant. §**

**IN THE DISTRICT COURT OF §
TRAVIS COUNTY, TEXAS §
98TH JUDICIAL DISTRICT §**

8223

AGREED ORDER OF DISMISSAL

This cause is an action under the Public Information Act (PIA), Texas Government Code Chapter 552. Plaintiff Houston Housing Authority and Defendant Ken Paxton, Attorney General of Texas (Attorney General) agree that this matter should be dismissed pursuant to PIA section 552.327 on the grounds that the requestor has voluntarily withdrawn his request for information. A court may dismiss a PIA suit under section 552.327 when all parties agree to dismissal and the Attorney General determines and represents to the Court that the requestor has voluntarily withdrawn the request in writing or has abandoned the request. See Tex. Gov't Code § 552.327. The Attorney General represents to the Court that the requestor, Charlie Duncan of Texas Low Income Housing Information Service, has voluntarily withdrawn his request for information. Accordingly, Houston Housing Authority is not required to disclose the requested information ruled open in Letter Ruling No. OR2015-08021.



The Court is of the opinion that entry of an agreed dismissal order is appropriate.

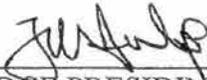
It is THEREFORE, ORDERED, ADJUDGED and DECREED that this cause is DISMISSED in all respects;

All court costs and attorney fees are taxed to the party incurring same;

All other requested relief not expressly granted herein is denied;

This order disposes of all claims between the parties and is final.

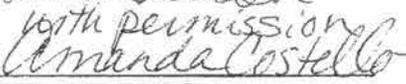
Signed this 8th day of July, 2015.



 JUDGE PRESIDING

TIM SULAK

AGREED:


 with permission of


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