



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 13, 2015

Mr. James Powell
Assistant General Counsel
North Central Texas Council Of Governments
P.O. Box 5888
Arlington, Texas 76005-5888

OR2015-21419

Dear Mr. Powell:

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# 583100.

The North Central Texas Council of Governments (the "council") received a request for the list of individuals, including name and address, who were granted, or waitlisted for, the North Central Texas Safe Room Rebate Program (the "program"), which is funded through the Federal Emergency Management Agency's ("FEMA") Hazard Mitigation Grant Program. You claim the requested 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

Section 552.101 of the Government Code 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 this office has stated in numerous opinions 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

¹We assume that 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.

state or local governmental bodies in Texas). However, this office has also held 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 Federal 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).

The requested information includes the names and contact information for participants in the program. You state the program at issue is administered by the council pursuant to a grant agreement with the Texas Department of Public Safety’s Division of Emergency Management (the “department”), which correspondingly contracts with FEMA. We understand the department receives and maintains the requested information due to its agreement with FEMA, which requires the department to maintain the privacy of this information pursuant to the Federal Privacy Act. We therefore find the requested information in the hands of the council is confidential pursuant to the Federal Privacy Act. Release of the requested information in response to the present request would not be a release in accordance with the exceptions to the Federal Privacy Act. Therefore, the requested 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.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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/som

Ref: ID# 583100

Enc. Submitted documents

c: Requestor
(w/o enclosures)