



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2017

Ms. Jessica Vu
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott
P.O. Box 12428
Austin, Texas 78711

OR2017-17596

Dear Ms. Vu:

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# 671683 (OOG PIR# 17-198).

The Office of the Governor (the "OOG") received a request for communications between the OOG and any United States agencies regarding three specified terms during a specified time period. You state the OOG has released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the interests of the United States Department of Energy (the "department"). Accordingly, you state, and provide documentation showing, you notified the department of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have received comments from the department. We have considered the submitted argument and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This office has repeatedly held that the transfer of confidential information between governmental agencies does not destroy the confidentiality of that information. *See* Attorney General Opinions H-917 (1976), H-836 (1974); Open Records Decision Nos. 561 (1990), 414 (1984), 388 (1983), 272 (1981), 183 (1978). These opinions recognize the need to maintain an unrestricted flow of information between state agencies. In Open Records

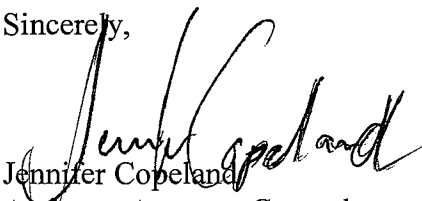
Decision No. 561, we considered whether the same rule applied regarding information deemed confidential by a federal agency. In that decision, we noted the general rule that section 552 of title 5 of the United States Code, the federal Freedom of Information Act (“FOIA”), applies only to federal agencies and does not apply to records held by state agencies. ORD 561 at 6. Further, we stated information is not confidential when in the hands of a Texas agency simply because the same information is confidential in the hands of a federal agency. *Id.* However, in the interests of comity between state and federal authorities and to ensure the flow of information from federal agencies to Texas governmental bodies, we concluded, “when information in the possession of a federal agency is ‘deemed confidential’ by federal law, such confidentiality is not destroyed by the sharing of the information with a governmental body in Texas. In such an instance, [section 552.101] requires a local government to respect the confidentiality imposed on the information by federal law.” *Id.* at 7.

We note some of the submitted information was provided to the OOG by the department. The department informs this office that it considers the information it has indicated confidential under the provisions found in section 552(b)(6)(A) of title 5 of the United States Code. *See* 5 U.S.C. § 552(b)(6)(A) (agency may withhold personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy). Therefore, we conclude the OOG must withhold the information at issue, which we have marked, under section 552.101 of the Government Code in conjunction with federal law. As no further exceptions have been raised, the remaining 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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/sb

Ref: ID# 671683

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)