



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 26, 2019

Ms. Kristen Lee
Assistant County Attorney
Harris County
1019 Congress Street, 15th Floor
Houston, Texas 77002

OR2019-05363

Dear Ms. Lee:

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# 751772 (C.A. File No. 18PIA0983).

The Harris County Flood Control District (the "district") received a request for the street addresses flooded in a specified MUD during Hurricane Harvey. 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 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." 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 (the "Privacy Act"). We note 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 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).

We understand the information at issue pertains to individuals who applied for FEMA aid. You explain FEMA provided the information at issue to the district. You further state the district is required to maintain the privacy of applicant information in accordance with the Privacy Act. *See* 44 C.F.R. § 206.110(j)(2) (FEMA must share applicant information with states), (j)(2)(i) (states receiving such information must protect it in the same manner the Privacy Act requires FEMA to protect the applicant information). Upon review, we find the information at issue is confidential pursuant to the Privacy Act. You inform us 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 district must withhold the information at issue under section 552.101 of the Government Code in conjunction with the Privacy Act.

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,



Lecelle Clarke
Attorney
Open Records Division

LC/eb

Ref: ID# 751772

Enc. Submitted documents

c: Requestor
(w/o enclosures)