



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 20, 1996

Mr. Ricardo N. Garcia
Manager
Valley Initiative for Development
and Advancement
222 East Van Buren Street, Suite 403
Harlingen, Texas 78550

OR96-0993

Dear Mr. Garcia:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 40384.

The Valley Initiative for Development and Advancement ("VIDA") received a request for a copy of the resume and transcripts of the person it hired for a counselor position. You ask whether the release of the requested information would violate the Privacy Act.

The Privacy Act of 1974, 5 U.S.C. § 552a, restricts the disclosure of information by certain federal agencies, including any executive department. *See* 5 U.S.C §§ 552a (a)(1), 552a (b), 552 (f). Thus, unless VIDA is an "agency" for purposes of the Privacy Act of 1974, the disclosure restrictions of that statute do not apply to the requested information. This office renders decisions only about the release of information under the Open Records Act and does not address questions about the release of information by agencies subject to the Privacy Act of 1974. *See* Gov't Code § 552.306.

The Texas Open Records Act generally makes public information that is maintained by or for a "governmental body." *See* Gov't Code § 552.002. Government Code section 552.003(a) defines "governmental body" to include various state, county and municipal entities. The definition also includes the following:

the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds.

Gov't Code § 552.003(A)(x). "Public funds" are funds of the state or of a governmental subdivision of the states. Gov't Code § 552.003(1)(B)(5). You state that "[o]ur agency is apparently under the jurisdiction of the Open Records Act, since it is federal money that flows through the state."

This office has concluded that an entity that administers funds received by the state from federal appropriations is a governmental body for purposes of the Open Records Act. *See* Open Records Decision No. 509 (1988) (determining that Austin-Travis County Private Industry Council is governmental body since it administers federal funds received by state under federal Job Training Partnership Act, 29. U.S.C. § 1501 *et seq.*). Thus, if VIDA administers funds received by the state from the federal government, we believe it is spending public funds and is a governmental body for purposes of the Open Records Act.

The Open Records Act presumes that governmental records are open to the public unless the records are within one of the exceptions set out in subchapter C of that act. *See* Gov't Code § 552.021; Open Records Decision No. 363 (1983). You raise no exception in the Open Records Act to the required public disclosure of the requested information. If a governmental body wishes to withhold particular information, it must establish that a particular exception applies to the information. Gov't Code § 552.301. If a governmental body does not establish how and why an exception applies to the requested information, the attorney general has no basis on which to pronounce it protected. *See* Open Records Decision No. 363 (1983). Accordingly, we cannot conclude that VIDA may withhold the requested information.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

Ref.: ID# 40384

Enclosures: Submitted documents

cc: Mr. José P. Baldonado
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Brownsville, Texas 78521
(w/o enclosures)