



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 29, 2010

Ms. Dolores Alvarado Hibbs  
General Counsel  
Texas Department of Agriculture  
P.O. Box 12847  
Austin, Texas 78711

OR2010-01441

Dear Ms. Hibbs:

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# 367436.

The Texas Department of Agriculture (the "department") received a request for the names of the individuals appointed by the department to review applications to the National Telecommunications and Information Administration's ("NTIA") Broadband Technology Opportunities Program, as well as any other program related to increasing broadband internet use. You claim that 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 information.

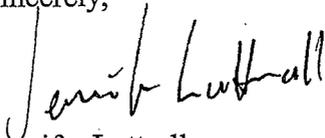
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. The department raises section 552.101 in conjunction with the federal Freedom of Information Act ("FOIA"). *See* 5 U.S.C. § 552. We note, however, that FOIA is applicable to information held by an agency of the federal government. In this instance, the information at issue was created for and is maintained by the department, which is subject to the state laws of Texas. *See* Attorney General Opinion MW-95 (1979) (FOIA exceptions apply to federal agencies, not to state agencies); Open Records Decision Nos. 496 (1988), 124 (1976); *see also* Open Records Decision No. 561 at 7 n 3 (1990) (noting that federal authorities may apply confidentiality principles found in FOIA differently from way in which such principles

are applied under Texas open records law). Accordingly, the department may not withhold the submitted information under section 552.101 in conjunction with FOIA. As no further exceptions are raised, 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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/dls

Ref: ID# 367436

Enc. Submitted documents

c: Requestor  
(w/o enclosures)