



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 10, 2012

Mr. Carey E. Smith
General Counsel
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

OR2012-05111

Dear Mr. Smith:

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# 450215 (Commission OR-20120118-6546).

The Texas Health and Human Services Commission (the "commission") received a request for the amount of Supplemental Nutrition Assistance Program ("SNAP") benefits spent per retail location, per month for the years 2007 through 2011. 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 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. Section 552.101 encompasses information protected by other statutes, such as section 278.1(q) of title 7 of the Code of Federal Regulations. A federal statute or an administrative regulation enacted pursuant to statutory authority can provide statutory

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

confidentiality for purposes of section 552.101. *See* Open Records Decision Nos. 476 (1987), 226 (1979). Section 278.1(q) provides in part:

(q) Use and disclosure of information provided by firms. With the exception of [employee identification numbers (“EINs”)] and [social security numbers (“SSNs”)], any information collected from retail food stores and wholesale food concerns, such as ownership information and sales and redemption data, may be disclosed for purposes directly connected with the administration and enforcement of the Food Stamp Act and these regulations, and can be disclosed to and used by State agencies that administer the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). Such information may also be disclosed to and used by Federal and State law enforcement and investigative agencies for the purpose of administering or enforcing other Federal or State law, and the regulations issued under such other law. Such disclosure and use shall also include companies or individuals under contract for the operation by, or on behalf of [the United States Department of Agriculture Food and Nutrition Service (“FNS”)] to accomplish an FNS function. Such purposes include the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law. Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law or regulations any information obtained under this paragraph shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. Safeguards with respect to [EINs] are contained in paragraph (q)(2) of this section. Safeguards with respect to [SSNs] are contained in paragraph (q)(3) of this section.

7 C.F.R. § 278.1(q). You contend the submitted information, which pertains to aggregated SNAP merchant transactions, is confidential under section 278.1(q). You state the requestor does not represent any of the entities authorized to receive such information. Upon our review, we determine the commission must withhold the submitted information from disclosure under section 552.101 of the Government Code in conjunction with section 278.1(q) of title 7 of the Code of Federal Regulations.²

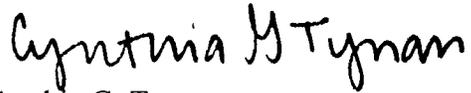
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

responsibilities, please visit our website at 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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/em

Ref: ID# 450215

Enc. Submitted documents

c: Requestor
(w/o enclosures)

