



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 13, 2017

Ms. Nneka E. Kanu
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2017-03253

Dear Ms. Kanu:

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# 645513 (GC Nos. 23911, 23916, and 23946).

The City of Houston (the "city") received three requests for all written correspondence between named individuals and specified corporations. You state some of the requested information will be released. You claim the submitted information is not subject to the Act. We have considered your argument and reviewed the submitted information.

Initially, we note, in letters dated December 8, 2016, and December 9, 2016, the city states it wishes to withdraw its requests for open records decisions with regard to the information responsive to requests GC No. 23916 and GC No. 23946, respectively, because the city will release this information to the requestor. This ruling does not address the public availability of information the city no longer seeks to withhold.

Next, you argue the e-mails contained in submitted information are not public information subject to the Act. The Act is applicable only to "public information." Gov't Code §§ 552.002, .021. Section 552.002(a) defines "public information" as information that is

(a) . . . written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

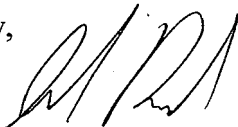
(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Thus, almost all of the information in a governmental body's physical possession constitutes public information and is subject to the Act. *See id.*; *see also* Open Records Decision No. 549 at 4 (1990), 514 at 1-2 (1988). You assert that the e-mails in the information at issue are personal e-mails created by individuals not acting in their official government capacities and do not pertain to the transaction of the city's official business. Based upon these representations and our review of the e-mails at issue, we agree that the information at issue does not constitute public information for purposes of section 552.002 of the Government Code. *See* Open Records Decision No. 635 at 4 (1995) (recognizing that section 552.002 is not applicable to personal information unrelated to official business and created or maintained by a public employee involving a de minimis use of public resources). Therefore, we conclude submitted responsive information is not subject to the Act and need not be released in response to the present request for information.

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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/sdk

Ref: ID# 645513

Enc. Submitted documents

c: Requestor
(w/o enclosures)