



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 2, 2018

Mr. James R. Palomo
Assistant District Attorney
Dallas County
411 Elm Street, Suite 500
Dallas, Texas 75202-3384

OR2018-00064

Dear Mr. Palomo:

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# 690038.

Dallas County (the "county") received a request for all e-mails from certain e-mail addresses and e-mails containing certain terms during a specified time period, and invoices submitted to the county by certain companies during a specified time period.¹ You state the county has released some information. With the exception of the information you marked for release, you claim the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101, 552.107,

¹You state the county sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

552.111, 552.136, and 552.137 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.²

Initially, we note the requestor excluded attorney-client communications and personal medical information from his request. Accordingly, such information is not responsive to the request. This ruling does not address the public availability of non-responsive information, and the county is not required to release non-responsive information in response to this request.³

Next, you argue that, with the exception of the information you marked for release, the responsive information is not subject to the Act. The Act applies to “public information,” which is defined in section 552.002 of the Government Code as:

(a) . . . information that is 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; or

(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, virtually all of the information in a governmental body’s physical possession constitutes public information and thus is subject to the Act. *Id.* § 552.002(a)(1);

²We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

³As our ruling is dispositive, we need not address your arguments against disclosure of this information.

see Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess. Information that is written, produced, collected, assembled, or maintained by a third party, including an individual officer or employee of a governmental body in his or her official capacity, may be subject to disclosure under the Act if a governmental body owns, has a right of access, or spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information. Gov't Code § 552.002(a); *see* Open Records Decision No. 462 at 4 (1987). Information is "in connection with the transaction of official business" if the information is created by, transmitted to, received by, or maintained by a person or entity performing official business or a government function on behalf of a governmental body and the information pertains to official business of the governmental body. *See* Gov't Code § 552.002(a-1). Moreover, section 552.001 of the Act provides that it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. *See* Gov't Code § 552.001(a).

You assert the information at issue consists of communications that relate to personal financial transactions for goods and services between county employees and officials and private companies. You argue this information does not constitute public information because these communications are wholly unrelated to the transaction of official business of the county. Further, you state the transactions at issue do not involve the expenditure of county funds, and the goods and services were not purchased for use by the county. Based on your representations and our review, we find the information at issue does not constitute "information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the county. *See id.* § 552.002. Therefore, we conclude this information does not constitute public information for purposes of section 552.002 of the Government Code. *See* Open Records Decision No. 635 at 7 (1995) (section 552.002 not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Accordingly, with the exception of the information you state will be released, the county is not required to release the responsive information in response to this request for information.⁴ As you raise no further exceptions to disclosure of the remaining information, the county must release the information you marked.

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.

⁴As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/sb

Ref: ID# 690038

Enc. Submitted documents

c: Requestor
(w/o enclosures)