



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 6, 2019

Ms. Jacqueline E. Hojem
Public Information Coordinator
Metropolitan Transit Authority of Harris County
P.O. Box 61429
Houston, Texas 77208-1429

OR2019-31287

Dear Ms. Hojem:

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# 798822 (ORR# 2019-0786).

The Metropolitan Transit Authority of Harris County (the "authority") received a request for (1) any e-mails between two named individuals during a stated time period; (2) e-mails between any authority employee and any employee of a named entity during a stated time period; (3) certain reports conducted by the authority regarding a specified topic during a stated time period; and (4) any documents regarding a specified topic. You state the authority released some information to the requestor. You claim the submitted information is not subject to the Act. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

The Act is applicable only to "public information." *See id.* §§ 552.002, .021. Section 552.002(a) of the Government Code reads as follows:

(a) In this chapter, "public information" means 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;

(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). Section 552.002(a-1) also provides the following:

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

Id. § 552.002(a-1). Thus, virtually all the information in a governmental body's physical possession constitutes public information and is subject to the Act. *Id.*; see Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You explain the information at issue consists of personal e-mails between an authority official and individuals related to personal matters and does not relate to the transaction of official business of the authority. We understand use of the authority's resources to create and maintain the information at issue was *de minimis*. See Open Records Decision No. 635 at 4 (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). Based upon these representations and our review, we conclude the information at issue does not constitute public information for purposes of section 552.002 of the Government Code. Accordingly, the submitted information is not subject to the Act, and the authority is not required to release it in response to the request.

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 <https://www.texasattorneygeneral.gov/open->

government/members-public/what-expect-after-ruling-issued or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Graham". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James M. Graham
Assistant Attorney General
Open Records Division

JMG/mo

Ref: ID# 798822

Enc. Submitted documents

c: Requestor
(w/o enclosures)