



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 25, 2020

Mr. Jacob Laborde  
Public Information Coordinator  
Capital Metropolitan Transportation Authority  
2910 East Fifth Street  
Austin, Texas 78702

OR2020-05918

Dear Mr. Laborde:

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# 813414 (PIR No. 2019-11-797).

Capital Metropolitan Transportation Authority (the "authority") received a request for any e-mails between named individuals during a stated period of time. You claim the submitted information is excepted from disclosure under section 552.111 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note you have not submitted information responsive to portions of the request seeking e-mails between certain named individuals. To the extent any additional information responsive to the request existed on the date the authority received the request, we assume the authority has released it. If the authority has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Next, we must address the authority's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). In this instance, you state the authority received the request for information on November 26, 2019. We understand the authority was closed for business on November 28 and 29, 2019. We note this office does not count the date the request was received or holidays for purposes of calculating a governmental body's deadlines under the Act. Accordingly, you were required to provide the information required by section 552.301(b) by December 12, 2019. However, the envelope in which

the authority provided the information required by section 552.301(b) was postmarked December 13, 2019. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we conclude the authority failed to comply with the procedural requirements mandated by section 552.301(b) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although you claim the submitted information is excepted from disclosure under section 552.111 of the Government Code, we find you failed to establish a compelling reason to address your claim under this exception. Thus, the authority may not withhold any of the information at issue on that ground. Therefore, the authority must release the submitted 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 <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,



James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/be

Ref: ID# 813414

Enc. Submitted documents

c: Requestor  
(w/o enclosures)