



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 7, 2020

Ms. Ileana Fernandez
Assistant City Attorney III
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2020-10388

Dear Ms. Fernandez:

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# 821139 (ORR# CM-R002389).

The City of Plano (the "city") received a request for e-mails from the personal e-mail account of a named city official. The city argues the submitted information does not consist of public information subject to disclosure under the Act. We have considered the submitted argument and reviewed the submitted information.

The city argues the submitted 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

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.

Gov't Code § 552.002(a). Information is "in connection with the transaction of official business" if it 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 government function on behalf of a governmental body, and pertains to official business of the governmental body." *Id.* § 552.002(a-1). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and is subject to the Act. *See* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988).

The city argues the submitted information is not subject to the Act because the information was created by the named city official using his personal e-mail account, no public funds were utilized in this matter, and no official government business was conducted. Based on the city's representations and our review of the information at issue, we find the submitted information does not constitute public information for purposes of section 552.022 of the Government Code. Thus, we conclude the submitted information is not subject to the Act and need not be released in response to this 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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/rm

Ref: ID# 821139

Enc. Submitted documents

c: Requestor
(w/o enclosures)