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ATTORNEY GENERAL OF TEXAS

May 01, 2020

Mr. Michael Shaunessy
Counsel for Geo Group, Inc.
McGinnis & Lochridge
600 Congress Avenue, Suite 2100
Austin, Texas 78701

OR2020-12334

Dear Mr. Shaunessy:

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# 825705.

The Geo Group, Inc. (the "group") received a request for information pertaining to claims or lawsuits in which the group made payments totaling \$1,000 or more during a certain time period. You state some of the requested information does not exist.¹ You claim the remaining requested information is not subject to the Act. We have considered your argument.

You assert the requested information is not subject to the Act. The Act is applicable only to "public information." See Gov't Code §§ 552.002, .021. Section 552.002 of the Government Code defines "public information" as:

(a) [I]nformation 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;

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(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.

(a-1) 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), (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). 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).

You argue the requested information is not "public information" subject to the Act because the group was not a governmental body subject to the Act at the time the information was created. See *id.* § 552.003(1)(A) (defining "governmental body" for purposes of the Act). You acknowledge the group is a governmental body under current version of the Act, which includes an amended definition of governmental body which added a "confinement facility operated under a contract with any division of the Texas Department of Criminal Justice[.]" *Id.* § 552.003(1)(A)(xii). We understand the group possesses and maintains information responsive to the request. Accordingly, we find the requested information constitutes public information subject to the Act and may only be withheld if an exception to disclosure under the Act applies. As you raise no further arguments against the disclosure of the requested information, the group must release the requested 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,

Emily Kunst
Assistant Attorney General
Open Records Division

EK/jxd

Ref: ID# 825705

c: Requestor