



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 10, 2009

Ms. Helen Valkavich  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283

OR2009-09529

Dear Ms. Valkavich:

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# 349461 (COSA File No. 09-0544).

The City of San Antonio (the "city") received a request for correspondence sent to or from Senator Kay Bailey Hutchison or her office discussing bonds, funding, or federal action. You state you are releasing most of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.137 makes certain e-mail addresses confidential, providing the following:

- (a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating

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<sup>1</sup> We assume that 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 that those records contain substantially different types of information than that submitted to this office.

electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract; or

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public.

(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

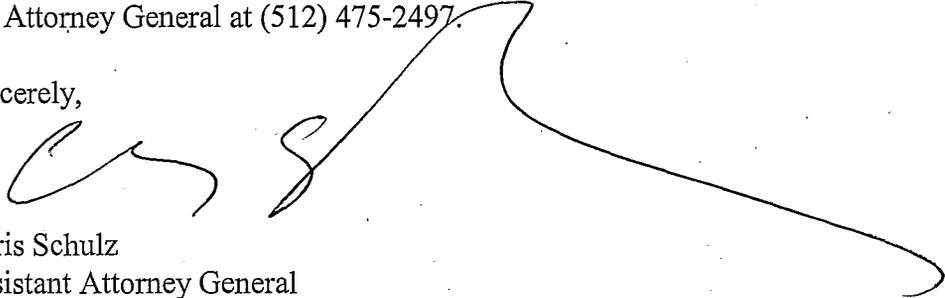
Gov't Code § 552.137. Under section 552.137, a governmental body must withhold the e-mail address of a member of the general public, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure. *See id.* § 552.137(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under section 552.137. Additionally, we note that section 552.137 does not apply to the work e-mail addresses of officers or employees of a governmental body. We also note that an e-mail address "provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public" is specifically excluded from the confidentiality provisions of section 552.137(a) by section 552.137(c)(4). *Id.* § 552.137(c)(4). You have marked an e-mail address contained on a letterhead. Therefore, the city may not withhold this e-mail address under section 552.137 of the Government Code. Further, you state that many of the e-mail addresses in the submitted information are

not confidential as the e-mail addresses belong to government personnel or entities that have contracted with the city. Although we agree you must release the types of e-mail addresses listed in section 552.137(c), you also state you are releasing e-mails "used in public commerce." We note that an address used in "public commerce" is not a type of e-mail address excluded from confidentiality under section 552.137(c). *See id.* § 552.137(c). Accordingly, the city must withhold the e-mail addresses that are not specifically excluded by subsection (c), to the extent the owners of the e-mail addresses have not affirmatively consented to their release. *See id.* § 552.137(b). The remaining information must be released.

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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/cc

Ref: ID# 349461

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)