



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 30, 2014

Mr. Rene Guerra  
Criminal District Attorney  
Hidalgo County  
100 North Closner, Room 303  
Edinburg, Texas 78539

OR2014-07180

Dear Mr. Guerra:

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# 521264.

Hidalgo County (the "county") received a request for certain documentation, including credit card statements, related to payments made to a named individual and rewards earned by the named individual. You state you do not have information responsive to portions of the request.<sup>1</sup> You state you have redacted information pursuant to sections 552.024, 552.130(c), and 552.136(c) of the Government Code.<sup>2</sup> You state you have released redacted copies of some information to the requestor. You claim the remaining requested information is not

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<sup>1</sup>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).

<sup>2</sup>Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See Gov't Code* § 552.024(c)(2). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

subject to the Act. In the alternative, you claim the remaining requested information is subject to section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, you argue some of the submitted 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(a) defines "public information" as

[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;

(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). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and, thus, is subject to the Act. *Id.* § 552.002(a)(1); see Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess. Information that is written, produced, collected, assembled, or maintained by a third party, including an individual officer or employee of a governmental body in his or her official capacity, may be subject to disclosure under the Act if a governmental body owns, has a right of access, or spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information. Gov't Code § 552.002(a); see Open Records Decision No. 462 at 4 (1987). 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). Moreover, section 552.001 of the Act provides that it is the policy of this state that each person is entitled, unless otherwise

expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. *See id.* § 552.001(a).

You claim the submitted credit card statements and reward information of the named individual are not public information subject to the Act because the county does not write, produce, collect, assemble, or maintain this information for the transaction of official business. You state the credit card statements pertain to the named individual's personal credit card for which the county has no access or interest. You explain the credit card at issue is sometimes used for county business. However, you state the named individual does not provide full copies of his personal statement to the county. You explain the county has released all documents the named individual provides to the county for reimbursement of county business expenses paid for with his personal credit card. Based on your representations and our review of the information at issue, we find the personal credit card information in Exhibit C does not constitute public information for purposes of section 552.002 of the Government Code. *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). Therefore, we conclude Exhibit C is not subject to the Act and need not be released in response to the present request for information.

We note Exhibit B includes information that is subject to section 552.136 of the Government Code.<sup>3</sup> Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Accordingly, the county must withhold the credit card number we have marked under section 552.136 of the Government Code.

In summary, Exhibit C is not subject to the Act and need not be released in response to the present request for information. The county must withhold the credit card number we have marked under section 552.136 of the Government Code. 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.

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<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Rashandra C. Hayes". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rashandra C. Hayes  
Assistant Attorney General  
Open Records Division

RCH/dls

Ref: ID# 521264

Enc. Submitted documents

c: Requestor  
(w/o enclosures)