



February 23, 2015

Ms. Donna L. Clarke
Assistant Criminal District Attorney
Lubbock County
P.O. Box 10536
Lubbock, Texas 79408-3536

OR2015-03485

Dear Ms. Clarke:

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# 554440.

Lubbock County (the "county") received a request for three categories of information related to a named individual and company during specified periods of time. You state you have released some information to the requestor. You claim the submitted e-mails are not subject to the Act. You also claim portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code.¹ We have considered your claims and reviewed the submitted information.

The Act is applicable only to "public information." *See* Gov't Code §§ 552.002, .021. Section 552.002(a) defines "public information" as

¹We note the county failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, section 552.136 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302., .352. Thus, we will address the applicability of this exception to the submitted information, notwithstanding the county's violation of section 552.301 in requesting this decision.

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;

(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.

(a-2) The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

Id. § 552.002(a)-(a-2). 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). You state the e-mails at issue, which you contend are purely personal in nature, involve an employee's *de minimis* use of the county's resources. You further state the information was not collected, assembled, or maintained regarding the transaction of official county business. Based on your representations and our review, we find the information in Exhibit B does not constitute public information for purposes of the Act. Gov't Code § 552.002; see also 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 no or *de minimis* use of state resources). Therefore, Exhibit B is not subject to the Act, and the county is not required to release it in response to this request.

Section 552.136(b) 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”). Upon review, the county must withhold the bank account and routing numbers it has marked under section 552.136 of the Government Code.

In summary, Exhibit B is not subject to the Act, and the county need not release this information in response to this request. The county must withhold the bank account and routing numbers it has 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.

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, 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,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 554440

Enc. Submitted documents

c: Requestor
(w/o enclosures)