



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 19, 2010

Mr. Floyd M. Akers  
City Attorney  
City of Pflugerville  
P.O. Box 589  
Pflugerville, Texas 78691-0589

OR2010-02508

Dear Mr. Akers:

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# 370620.

The City of Pflugerville (the "city") received a request for all non-city business e-mails or electronic communications, instant messages, saved chat sessions, forwarded attachments with audio, photos, or images from all city officials and staff. You state that the requested information is not subject to the Act. We have considered your arguments and reviewed the submitted information.<sup>1</sup>

You assert that the requested information is not public information as defined by section 552.002 of the Government Code, and, thus, is not subject to the Act. The Act applies only to "public information." See Gov't Code § 552.021. Section 552.002 of the Government Code defines public information as:

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; or

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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.

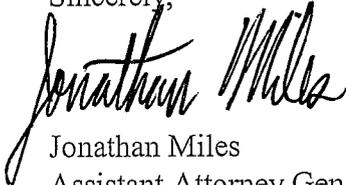
(2) for a governmental body and the governmental body owns the information or has a right of access to it.

*Id.* § 552.002. Information is generally subject to chapter 552 when it is held by a governmental body and it relates to the official business of a governmental body or is used by a public official or employee in the performance of official duties. Open Records Decision No. 635 (1995). You explain that the submitted information concerns "Non City Business." You represent that the submitted information was not collected, assembled, or maintained in connection with the transaction of the city's official business. Based on your representations and our review, we find that the submitted information was not collected, assembled, or maintained by or for the city under a law or ordinance or in connection with the transaction of official business. *See* Gov't Code § 552.002; *see also* ORD 635 (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving de minimis use of state resources). Therefore, the submitted information is not subject to the Act and need not 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, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 370620

Enc. Submitted documents

c: Requestor  
(w/o enclosures)