



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 21, 2011

Ms. Patricia Fleming
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2011-17181

Dear Ms. Fleming:

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# 437149.

The Texas Department of Criminal Justice (the "department") received a request for the schedules of individuals holding nine specified positions, travel expense reimbursement requests made by those individuals to a specified entity, and specified personnel information concerning those individuals, all during a specified time period. You state some information will be released to the requestor upon her response to a cost estimate. You claim portions of the submitted information are not public information subject to disclosure under the Act. We have considered your arguments and reviewed the submitted representative sample of information.¹

You contend the information you have marked is not public information subject to the Act. The Act is applicable only to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Act 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
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

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

Id. § 552.002(a). Virtually all information that is in a governmental body's physical possession constitutes public information that is subject to the Act. *Id.* § 552.002(a)(1); *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You claim the information you have marked is personal in nature and was not collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official department business. Upon review, we agree the information you have marked, and the additional information we have marked, was not "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the department. *See* Gov't Code § 552.021; *see also* Open Records Decision No. 635 (1995) (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). Because the marked information is not subject to the Act, it need not be released in response to this request for information. However, as no exceptions to disclosure have been raised for the remaining submitted information, it must be released to the requestor.

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, 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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/agn

Ref: ID # 437149

Enc. Submitted documents

c: Requestor
(w/o enclosures)