



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 24, 2012

Ms. Carol Longoria
Office of General Counsel
University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2012-17035

Dear Ms. Longoria:

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# 468881 (OGC No. 145493).

The University of Texas at Austin (the "university") received a request for information pertaining to communication between a named employee, who authored a specified study, and eleven named individuals or entities regarding an article published by one of the named individuals. You state the university has no information responsive to a portion of the request.¹ You argue the remaining requested information does not consist of public information subject to the Act, or is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.²

You argue the requested information is not subject to the Act. The Act is only applicable to "public information." See Gov't Code § 552.021. Section 552.002(a) defines public information as "information that is collected, assembled, or maintained under a law or

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

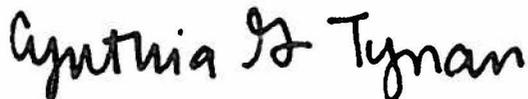
²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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." *Id.* § 552.002(a). You state the submitted e-mails contain purely personal exchanges that have no connection with the transaction of official business of the university. *See* 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). You explain the submitted information consists of correspondence from the named employee's personal e-mail account regarding a study published by the named employee prior to the correspondence at issue that is unrelated to the study's research methods of conclusions. Furthermore, you state the correspondence at issue was personal in nature and outside the scope of the named employee's employment. Upon review of the submitted information, we agree the information does not constitute "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for the university. *See* Gov't Code § 552.021. Thus, we conclude the submitted information is not subject to the Act and need not be released in response to this request.

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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 468881

Enc. Submitted documents

c: Requestor
(w/o enclosures)