



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 3, 2017

Mr. Ken Levine
Director
Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711-3066

OR2017-00124

Dear Mr. Levine:

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# 640069.

The Sunset Advisory Commission (the "commission") received a request for records pertaining to a specified issue discussed in a specified commission report. You state the commission has no information responsive to a portion of the request.¹ You state the commission will rely on Open Records Letter No. 2011-01970 (2011) with respect to some of the requested information.² See Open Records Decision No. 673 at 6-7 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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).

²In Open Records Letter No. 2011-01970, this office issued a previous determination that authorizes the commission to withhold working papers, including all documentary or other information, prepared or maintained by the commission staff in performing its duties to conduct an evaluation and prepare a report, under section 552.101 of the Government Code in conjunction with section 325.0195 of the Government Code without the necessity of requesting an attorney general decision with regard to the applicability of this exception.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information protected by other statutes, including section 325.0195 of the Government Code. Section 325.0195 provides, in relevant part:

(a) A working paper, including all documentary or other information, prepared or maintained by the commission staff in performing its duties under this chapter or other law to conduct an evaluation and prepare a report is excepted from the public disclosure requirements of Section 552.021.

Id. § 325.0195(a). You explain the submitted information consists of working papers of the commission prepared or maintained for the purpose of conducting a review under chapter 325 and preparing a report to the legislature. *See id.* § 325.010(a) (stating commission shall present at legislative session report on agencies reviewed to governor and legislature). Upon review, we determine the information at issue is confidential under section 325.0195. Accordingly, based on your representations and our review, we conclude the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 325.0195 of the Government Code.³

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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

³As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

Ref: ID# 640069

Enc. Submitted documents

c: Requestor
(w/o enclosures)