



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 8, 2017

Ms. Cynthia Reyna
General Counsel
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025

OR2017-20516

Dear Ms. Reyna:

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# 674657 (SOAH ORR# 2017-58).

The State Office of Administrative Hearings (the "SOAH") received a request for information pertaining to a specified case. You state pursuant to the records retention policy, SOAH does not have information responsive to a portion of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.111 and 552.144 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.144 of the Government Code provides, in relevant part:

The following working papers and electronic communications of an administrative law judge at the [SOAH] are excepted from [required public disclosure]:

(3) drafts of orders made in connection with conducting contested case hearings[.]

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).

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Gov't Code § 552.144(3). You state the submitted information consists of drafts of orders prepared by an administrative law judge in response to motions filed in the underlying contested case proceeding. Based on your representation and our review, we agree SOAH may withhold the submitted information under section 552.144(3) of the Government Code.²

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,



D. Michelle Case
Attorney
Open Records Division

DMC/gw

Ref: ID# 674657

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.