



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 20, 2022

Ms. Breanne Daniels
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2022-28838

Dear Ms. Daniels:

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# 970429 (LGL 22-067, WQA 76896).

The City of Waco (the "city") received a request for sanitary sewer analyses for a specified area. You state you released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.106 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

Section 552.106(a) of the Government Code excepts from required public disclosure "[a] draft or working paper involved in the preparation of proposed legislation" and "[a]n internal bill analysis or working paper prepared by the governor's office for the purpose of evaluating proposed legislation." Gov't Code § 552.106(a)-(b). We note section 552.106(b)

¹ We note, in a letter dated August 23, 2022, we asked the city to provide additional information pursuant to section 552.303 of the Government Code. *See* Gov't Code § 552.303(c)-(d) (if attorney general determines that information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice). We have received and considered the information submitted by the city pursuant to that request.

² We 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 that those records contain substantially different types of information than that submitted to this office.

applies to information created or used by employees of the governor's office for the purpose of evaluating proposed legislation. *Id.* § 552.106(a). Section 552.106(a) ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. *See* Open Records Decision No. 460 at 1 (1987). The purpose of this exception is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body. Therefore, section 552.106 encompasses only policy judgments, recommendations, and proposals of persons who are involved in the preparation of proposed legislation and who have an official responsibility to provide such information to members of the legislative body. *Id.* Section 552.106 does not protect purely factual information from public disclosure. *Id.* at 2; *see also* Open Records Decision No. 344 at 3-4 (1982). However, a comparison or analysis of factual information prepared to support legislation is within the ambit of section 552.106. *See* ORD 460 at 2.

The city argues the submitted information is protected by section 552.106. However, upon review, we find the city has not demonstrated the submitted information constitutes policy judgments, recommendations, and proposals regarding proposed legislation related to the city. We, therefore, conclude the city may not withhold any of the submitted information under section 552.106 of the Government Code. As no further exceptions to disclosure have been raised, the city must release the submitted information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/jm

Ref: ID# 970429

Enc. Submitted documents

c: Requestor
(w/o enclosures)