



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

April 19, 1989

Mr. Gary W. Smith
City Attorney
City of Texarkana, Texas
P. O. Box 1967
Texarkana, Texas 75504

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 5957; this decision is OR89-129.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The City of Texarkana, Texas, received a request under the Open Records Act for the resumes of all applicants for the position of city manager. You contend that subsections 3(a)(1), 3(a)(2), 3(a)(4), and 3(a)(17) protect the resumes from required disclosure.

None of the exceptions you claim apply to resumes. Sections 3(a)(1) and 3(a)(2) do not protect from disclosure resumes submitted as part of an application for public employment. See Open Records Decision No. 455 (1987). Nor does section 3(a)(17) apply to applicants for employment. See id. Section 3(a)(4) protects "information which, if released, would give advantage to competitors or bidders." An applicant for public employment is not a "competitor" within the meaning of section 3(a)(4).

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Finally, you contend that the information is protected because it will be discussed at a meeting that will be closed to the public under section 2(g) of the Open Meetings Act, article 6252-17, V.T.C.S. Setting aside the question of whether section 2(g) encompasses applicants in addition to employees, information may not be withheld from the public simply because it was discussed in closed session. See Open Records Decision No. 485 (1987).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-129.

Yours very truly,
Open Government Section
of the Opinion Committee 

Open Government Section
of the Opinion Committee
Prepared by Jennifer S. Riggs
Chief, Open Government Section

JSR/bc

Ref.: ID# 5957

cc: Doug Myers

Enclosures: ORD-455
ORD-485