



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

April 9, 1990

Honorable James Lucko
Mayor
City of Malone
Box 6
Malone, Texas 76660

OR90-136

Dear Mayor Lucko:

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# 8230.

Specifically, you ask whether a letter to you from an auditor hired to audit the financial statements of the city of Malone is subject to required public disclosure. You suggest that the letter or parts of it may be withheld under the exceptions set out in sections 3(a)(1), 3(a)(6), and 3(a)(11) of the act.

Section 3(a)(1) requires that a governmental body not release information made confidential by law. You suggest that the information is made confidential by a rule promulgated by the Board of Public Accountancy, 22 T.A.C. § 501.31. That rule applies to the release of information in the possession of an accountant. It does not apply to the release of information in the custody of a governmental body.

You also raise section 3(a)(6), which allows a governmental body to withhold "drafts and working papers involved in the preparation of proposed legislation." The letter in question does not appear to be such a document, and you do not explain why it would be. Consequently, we see no basis for withholding the letter under section 3(a)(6).

Finally, you raise section 3(a)(11), which allows a governmental body to withhold advice, opinion, or recommendation prepared for use in a governmental body's decision-making process. You note that this section is applicable to information prepared by an outside consult for

use by the governmental body. Open Records Decision No. 298 (1981). Certain portions of the letter in question may be withheld under section 3(a)(11). We have marked in pencil the portions of the letter that may be withheld.

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. Please send a copy of this ruling to Mr. Tommy G. Westmoreland. If you have questions about this ruling, please refer to OR90-136.

Yours very truly,



Sarah Woelk
Assistant Attorney General
Opinion Committee

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Ref.: ID# 8230

Enclosures: Marked Documents