



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 5, 1996

Mr. John Steiner
Division Chief, Opinions and Contracts
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR96-1590

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101135.

The Austin Public Library (the "library") received a request for the following information relating to the 1996-97 City Manager's Draft Policy Budget:

1. All information regarding or relating to the possible closure of five branch libraries;
2. All documents relating to or describing the operating costs for the Oak Hill Branch Library, the Milwood Branch Library and the Southeast Branch Library, including proposed staffing positions.
3. The Budget Data Input Forms for all Library locations, divisions or program areas.

You claim that the requested information is excepted from disclosure under section 552.106 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.106 excepts from disclosure "a draft or working paper involved in the preparation of proposed legislation." Section 552.106 ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. Open

Records Decision No. 460 (1987). The purpose of section 552.106 is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body, and, therefore, it does not except from disclosure purely factual information. *Id.* at 2. However, a comparison or analysis of factual information is within section 552.106. *Id.* A proposed budget constitutes a recommendation by its very nature, and it may therefore be withheld under section 552.106. *Id.* This office has also concluded that the drafts of a municipal ordinance and resolution which reflect policy judgments, recommendations, and proposals are excepted by section 552.106. Open Records Decision No. 248 (1980).

You indicate that the city charter requires the city manager to prepare an annual budget proposal for the city council, a legislative body. The city charter also requires that the annual budget be adopted by municipal ordinance. The report at issue contains projections for the 1996-97 fiscal year. You state that the city manager is using the projections in the report to formulate the proposed budget that he will present to the city council. Under these circumstances, we conclude that the city may withhold the requested documents from disclosure under section 552.106 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 101135

Enclosures: Submitted documents

cc: Mr. David Pluenneke
AFSCME Library Steward
AFSCME
1509 Bouldin Avenue
Austin, Texas 78704
(w/o enclosures)