



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 12, 1997

Mr. J. Paul Nelson
Law Offices of J. Paul Nelson
P.O. Box 934
Henderson, Texas 75652

OR97-1801

Dear Mr. Nelson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 108543.

The City of Henderson (the "city") received a request for the details of a specific settlement agreement. You state that the requested information does not exist.

The Open Records Act does not ordinarily require a governmental body to obtain information not in its possession. Open Records Decision Nos. 558 (1990), 499 (1988). Section 552.002 of the Government Code, however, defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Thus, any information maintained by the city's outside counsel would constitute public information. Since it appears that the city is not in possession of the requested information, the information is not now public information as defined by the Open Records Act. Furthermore, the Open Records Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision No. 452 (1986) at 3. However, the requestor may submit a new request for the information once it comes into existence.

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 on as a previous

determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/alg

Ref.: ID# 108543

cc: Mr. Dave Berry
Managing Editor
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(w/o enclosures)