



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 19, 1997

Ms. Joanne Wright
Associate General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Building
125 East 11th Street
Austin, Texas 78701-2483

OR97-2099

Dear Ms. Wright:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 108897.

The Texas Department of Transportation (the "department") received a request for "the study prepared by Jeanneret & Associates addressing the duties and responsibilities of Area Engineers, District Directors, and all other group 21 and above." You state that "the requested study was conducted by a consultant hired by [the department] to determine the necessity for a policy change with regard to the department's classification system." The study that you have submitted appears to be a draft of the study. As such, you explain that "the report consists of a recommended rating scale for [department] positions as developed by our consultant. Following that is a listing of the 'dimensions,' or job components, that the consultant believes should be rated and, finally, the consultant's opinion of how each position should be rated on the identified dimensions." You contend that the study is excepted from required public disclosure pursuant to section 552.111 of the Government Code. We have considered the exception you claim and have reviewed the sample material from the study that you have submitted.¹

¹In reaching our conclusion here, we assume that 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

In Open Records Decision 559 (1990), this office concluded that a preliminary draft of a document that is intended for public release in a final form necessarily represents the advice, opinion, and recommendation of the drafter as to the form and content of the final document and as such could be withheld pursuant to the statutory predecessor to section 552.111. However, subsequent to issuance of Open Records Decision No. 559 (1990), this office determined that section 552.111 excepts only advice, opinion, or recommendation intended for use in a governmental entity's policymaking processes.

[T]o come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters [Emphasis in original.]

Open Records Decision No. 615 (1993) at 5. Consequently, in light of Open Records Decision No. 615 (1993), section 552.111 now excepts draft documents only to the extent that the draft documents pertain to the policymaking function of the governmental body.

You argue that the study and its recommendation for how each job position should be rated on the identified dimensions comes under the protection of section 552.111 because

[t]he study in question contains advice, recommendations, and opinions that will, in the near future, be used to formulate policy on the proper classification of positions in Groups 21 and above. Note that the intent is not merely to reclassify individual employees, but to design a new system that will encompass a broad range of positions throughout the department.

In Open Records Decision No. 631 (1995), this office concluded that the policymaking functions of a governmental body include an outside consultant's advice, recommendations, and opinions regarding administrative and personnel matters of broad scope that affect the governmental body's policy mission. Section 552.111, however, does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 (1993) at 4-5. We conclude that you have established the applicability of section 552.111 for the recommendation of how each job position should be rated on the identified dimensions. We have marked the rating recommendations that may be withheld. The remaining information, however, must be released.

of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 108897

Enclosures: Submitted documents

cc: Mr. Thomas M. Dahl
606 RM 2340
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(w/o enclosures)

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