



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 25, 1998

Ms. M. Bernadette McKay
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR98-0794

Dear Ms. McKay:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113943.

The City of San Antonio (the "city") received a request for "[t]he San Antonio Fire Department budget request and all supporting documents provided by the department for the most recent budget cycle." You contend that the requested documents are excepted from disclosure pursuant to section 552.106 of the Government Code. We have considered the exception you claim 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 prepared to support proposed legislation is within the ambit of section 552.106. *Id.* A proposed budget constitutes a recommendation by its very nature and may be withheld under section 552.106. *Id.* This office has also concluded that the drafts of municipal ordinances and resolutions which reflect policy judgments, recommendations, and proposals are excepted by section 552.106. Open Records Decision No. 248 (1980).

You explain that the city charter requires each city department to submit estimates of their budgetary requirements to the Office of Budget and Management Analysis. The Office of Budget and Management Analysis is then required to prepare the budget for the city manager in a form required by the charter. The city manager then submits an annual budget ordinance to the city

council for approval. Under these circumstances, we conclude that the city may withhold the requested documents from disclosure under section 552.106.

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 113943

Enclosures: Submitted documents

cc: Mr. Russell Gold
San Antonio Express-News
P.O. Box 2171
San Antonio, Texas 78297-2171
(w/o enclosures)