



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 16, 2012

Mr. Thomas A. Gwosdz
City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR2012-12954

Dear Mr. Gwosdz:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 464840.

The City of Victoria (the "city") received a request for a salary survey conducted by the city and the cost of the survey. You state the city will release some of the requested information, but claim some of the submitted information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you inform us the submitted information is part of a market analysis report prepared by a consulting firm that was hired by the city to conduct a market analysis on salaries and wages of city employees. Section 552.022(a)(1) of the Government Code provides the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

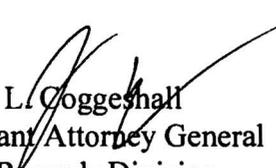
(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). Thus, the submitted market analysis report is subject to section 552.022(a)(1). *See id.* Although you assert this information is excepted from disclosure under the deliberative process privilege encompassed by section 552.111, section 552.111 is a discretionary exception to disclosure that protects the governmental body's interests and does not make information confidential under the Act. *See Open Records Decision No. 663 at 5 (1999) (governmental body may waive section 552.111); see also Open Records Decision No. 522 (1989) (discretionary exceptions in general).* Therefore, the city may not withhold this information under section 552.111. Accordingly, the city must release the submitted information to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 464840

Enc. Submitted documents

c: Requestor
(w/o enclosures)