



November 16, 1999

Ms. Kristi DeCluitt
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR99-3265

Dear Ms. DeCluitt:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 129447.

The City of College Station (the "city") received a request for documents relating to a proposed city landfill project.¹ You originally claimed that the requested information is excepted from disclosure under sections 552.103, 552.105, and 552.111 of the Government Code. However, in subsequent correspondence submitted to our office, you indicated that the city no longer reasonably anticipates litigation, and therefore, you have withdrawn your section 552.103 claim. You also withdrew your section 552.105 claim. Thus, we only consider whether section 52.111 excepts the Procurement Plan in Exhibit B from disclosure.

Section 552.111 excepts from disclosure "an interagency or intra agency memorandum or letter that would not be available by law to a party in litigation with the agency." This exception applies not only to a governmental body's internal memoranda, but also to memoranda prepared for a governmental body by its outside consultant. Open Records Decision Nos. 462 at 14 (1987), 298 at 2 (1981). In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material

¹You refer to this request as PWKMM Request No. 17.

reflecting the policymaking processes of the governmental body. Section 552.111 does not generally except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 at 4-5 (1993). We agree that the Procurement Plan in Exhibit B consists of advice, recommendations, and opinions which reflect the policymaking process of the BVSWMA, which is owned and operated by the city. Thus, the city may withhold this information pursuant to section 552.111 of the Government Code.

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/cwt

Ref: ID# 129447

Encl. Submitted documents

cc: Mr. C. J. Kling
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(w/o enclosure)