



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 17, 1996

Ms. Suzanne Schwartz
General Counsel
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

OR96-0560

Dear Ms. Schwartz:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38637.

The Texas Water Development Board (the "Board") received a request for copies of the "final matrix or evaluation sheet[s]" used by the Board in selecting a financial advisor. You claim that the requested information is excepted from required public disclosure under section 552.111 of the Government Code.

Section 552.111 excepts "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office concluded that section 552.111 excepts from required public disclosure only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *Id.* at 5. In addition, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.*

You state that the board contracts for the services of a financial advisor to facilitate the issuance and repayment of bonds issued by the board to provide financial assistance to political subdivisions for various water and wastewater projects. You further state that "the services of the financial advisor are often used in development of the Board's overall policy, and the selection of the financial advisor likewise affects

the Board's policy mission." You claim that these evaluations, therefore, contain advice recommendations, and opinions regarding administrative and personnel matters of "broad scope" that affect the board's "policy mission," thereby asserting that these evaluations may be withheld from required public disclosure under our decision in Open Records Decision No. 631 (1995). We disagree. The subject information in Open Records Decision No. 631 (1995) was a report which addressed allegations of systematic discrimination against minority faculty members at a university and, thus, related to the university's educational mission by addressing its policies concerning affirmative action. The evaluations at issue here merely involve the selection of an individual professional consultant. We do not believe that this is the type of "broad scope" administrative or personnel matter discussed in in Open Records Decision No. 631 (1995). Consequently, you may not rely on section 552.111 to withhold any of the requested information.¹

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,



Todd Reese
Assistant Attorney General
Open Records Division

RTR/rho

Ref: ID# 38637

Enclosures: Submitted documents

cc: Mr. William G. Newman, Jr.
Managing Director
Public Financial Management, Inc.
114 West 7th Street, Suite 1500
Austin, Texas 78701
(w/o enclosures)

¹You alternatively ask whether the initials of the scorer on each evaluation may be redacted to protect future working relationships between the applicants and employees of the Board. In Open Records Decision No. 538 (1990) at 3-4, this office held that the protection from public disclosure provided by section 552.111 extends to the information itself, without regard to whether the identity of the author may be discernible from the information, if disclosed. The scorer's initials may not be redacted.