



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 26, 1998

Ms. Linda Cloud  
Deputy Executive Director  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-6630

OR98-0245

Dear Ms. Cloud:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112307.

The Texas Lottery Commission (the "commission") has received six requests for any report(s) prepared by the commission's former executive director relating to lottery ticket sales. Each of the requestors also seeks additional information; however, the commission in this request for a decision only seeks to withhold the former director's draft reports on lottery sales. You claim that the requested report is excepted from required public disclosure by sections 552.103 and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

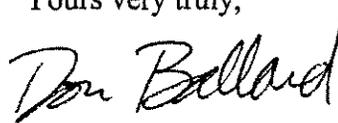
Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas 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 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. Open Records Decision No. 615 (1993) at 5-6. In addition, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5.

You explain that the requested records "are drafts of a 'Report' that was not finished. The 'Report' was being prepared under the direction of the former Executive Director." After examining the submitted materials, we find that the requested records reflect internal

advice, recommendations, and opinions concerning the commission's policymaking processes which is not severable from any factual portions. The requested documents may be withheld from required public disclosure under section 552.111.

Because we make a determination under section 552.111, we do not address your argument under section 552.103 at this time. 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# 112307

Enclosures: Submitted documents

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