



March 12, 1999

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

OR99-0724

Dear Ms. Cloud:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 122683.

The Texas Lottery Commission (the "commission") received a request for a copy of a "drawings broadcast production services study." You have supplied the responsive document, contending that it is excepted from public disclosure by sections 552.101, 552.104, and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

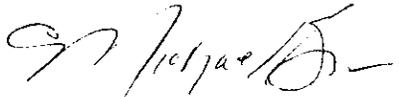
As section 552.104 of the Government Code is dispositive of your request, we will limit our discussion to that provision of the Open Records Act. Section 552.104 of the Government Code excepts from disclosure information that, if released, would give advantage to a competitor or bidder.

The purpose of this exception is to protect the interests of a governmental body in competitive bidding situations. *See* Open Records Decision No. 592 (1991). Section 552.104 is not designed to protect the interests of private parties that submit information to a governmental body. *Id.* at 8-9. This exception protects information from public disclosure if the governmental body demonstrates potential specific harm to its interests in a particular competitive situation. *See* Open Records Decision Nos. 593 (1991), 463 (1987), 453 at 3 (1986). A general allegation or a remote possibility of an advantage being gained is not enough to invoke the protection of section 552.104. Open Records Decision Nos. 541 at 4 (1990), 520 at 4 (1989). A general allegation of a remote possibility that some unknown "competitor" might gain some unspecified advantage by disclosure does not trigger section 552.104. Open Records Decision No. 463 at 2 (1987). As the exception was developed to protect a governmental body's interests, that body may

waive section 552.104. *See* Open Records Decision No. 592 at 8 (1991). You represent that requests for quotes are pending and that release of the subject information would provide an unfair advantage to prospective bidders, thereby harming the commission's interests in a particular competitive situation. Based on your representation and our review of the subject information, we conclude that the commission may withhold the subject information in its entirety pursuant to section 552.104 of the Government Code.

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.

Sincerely,



Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref::ID# 122683

Enclosures: Submitted documents

cc: Ms. Nancy Cordova
Elephant Productions, Inc.
501 North IH 35
Austin, Texas 78702
(w/o enclosures)