



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 21, 2009

Ms. Amy Poe
Public Information Officer
North East Texas Workforce Board d/b/a
Workforce Solutions Northeast Texas
911 North Bishop, Building A, Suite 100
Wake Village, Texas 75501

OR2009-00813

Dear Ms. Poe:

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# 332917.

The North East Texas Workforce Board d/b/a Workforce Solutions Northeast Texas (the "board") received a request for (1) graded scores for the requestor's proposal submitted in response to the board's request for proposal for Out-of-School Youth Services and (2) confirmation on who was awarded the contract. Subsequently, the board received a second request from the same requestor for a copy of the requestor's "graded sheets" or "the Matrix of what [the requestor's company was] counted off for from each individual." You inform us the board has released information responsive to the requestor's first request and a portion of the second request.¹ You claim a portion 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 representative sample of information.²

Initially, we note some of the submitted information, which we have marked, is not responsive to the present requests for information because it was created after the dates the

¹Thus, because you have released this information, we assume you withdraw your request for an open records decision for this information. Therefore, we need not address your argument under section 552.104 of the Government Code.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

board received the requests. Our ruling does not address this non-responsive information, and the board need not release it in response to the request.

Section 552.111 of the Government Code excepts from public disclosure “an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.” Gov’t Code § 552.111. This section encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of this exception is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, no writ); Open Records Decision No. 538 at 1-2 (1990).

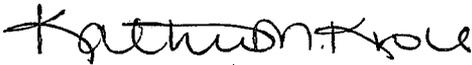
In Open Records Decision No. 615, this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, and opinions that reflect the policymaking processes of the governmental body. *See* ORD 615 at 5. A governmental body’s policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; *see also City of Garland v. The Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (Gov’t Code § 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body’s policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body’s policy mission. *See* Open Records Decision No. 631 at 3 (1995). Moreover, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. *See* ORD 615 at 5. But if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information may be withheld under section 552.111. *See* Open Records Decision No. 313 at 3 (1982).

You seek to withhold the name of the reviewer from the responsive scoring sheet. You assert the scoring sheet serves as a means for the reviewer to provide advice, opinion, and recommendations, and you contend release of the reviewer’s name will inhibit free discussion of future issues and recommendations. After review of your arguments, we conclude the board has failed to demonstrate, and the information at issue does not reflect on its face, that this information consists of advice, opinions, or recommendations. Therefore, the board may not withhold the reviewer’s name under section 552.111 of the Government Code. As you raise no further exceptions to disclosure, the responsive information must be released 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 at (512) 475-2497.

Sincerely,



Katherine M. Kroll
Assistant Attorney General
Open Records Division

KMK/eeg

Ref: ID# 332917

Enc. Submitted documents

c: Requestor
(w/o enclosures)