ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2010

Ms. Neera Chatterjee
The University of Texas System
Office of General Counsel
201 West Seventh Street
Austin, Texas 78701-2902

OR2010-11260

Dear Ms. Chatterjee:

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# 388188.

The University of Texas Medical Branch at Galveston (the "university") received a request for the bid tabulation and evaluation score sheets for RFP # 9418A Radio Pharmacy Renovation.[1] You state that you have released the bid tabulation to the requestor. You claim that 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 information.

Section 552.111 of the Government Code excepts from 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 exception encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 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 that section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes

[1]You inform us that the university sought and received clarification of the information requested. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

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. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 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). Further, 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 also may be withheld under section 552.111. *See* Open Records Decision No. 313 at 3 (1982).

You indicate the submitted scoring sheets are internal communications reflecting the deliberative and policymaking processes of university personnel in ranking the bid proposals for a project relating to a radio pharmacy. You argue that disclosure of the information at issue would hinder the decision making process of the university. Based upon your representations and our review of the information at issue, we agree that the score sheets are excepted from disclosure under section 552.111 of the Government Code and the university may withhold them from disclosure on that basis.

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, toll free, at (888) 672-6787.

Sincerely,

Jonathan Miles

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 388188

Enc. Submitted documents

c: Requestor
(w/o enclosures)