



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 26, 1996

Mr. Yuri Calderon
Assistant School Attorney
Houston Independent School District
Hattie Mae White Administration Building
3830 Richmond Avenue
Houston, Texas 77027-5838

OR96-2259

Dear Mr. Calderon:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37876.

The Houston Independent School District (the "district") received two requests for the following information:

1. a copy of "Human Resources, Tech. Finance R.F.P. August 1995";
2. a copy of the Wyatt Report on salary classifications;
3. all original plans for Project Renewal Phase A (1989-1995) with all expenditures and modifications (waivers if any); and
4. a list of all projects not completed in Phase A or those that will be carried over to Phase B.

You indicate that you have or will release items 2, 3, and 4. As for the request for proposal referred to in item 1, you claim that the requested information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the information you have submitted.

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 Dep't 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

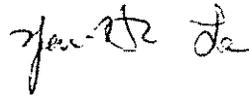
internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to 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 claim that the request for proposal is a draft proposal. Although a governmental body may not close documents merely by stamping "draft" on them, where a document is a genuine preliminary draft that has been released or is intended for release in final form, the draft necessarily represents the advice, opinion, and recommendation of the draftee. Open Records Decision No. 559 (1990). Therefore, the draft itself, including comments, underlining, deletions, and proofreading marks are excepted by section 552.111 of the Government Code, but not purely factual matters that are severable. *Id.*

You claim that the district and the Superintendent of Schools have made no final decision on whether to proceed to adopt the recommended request for proposal or whether to revise it. Accordingly, as the entire draft of the request for proposal is still subject to deliberation and possible revision, you may withhold the requested information in its entirety under section 552.111 of the Government Code.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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 37876

Enclosures: Submitted documents

¹Having concluded that the requested information is excepted from disclosure under section 552.111, we need not address your claim under section 552.104.

cc: Ms. Rosemary Covalt
Committee Member
Hispanic Education Committee
14502 Draycott Lane
Houston, Texas 77045
(w/o enclosures)