



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 30, 1997

Ms. Melissa Winblood
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

OR97-1502

Dear Ms. Winblood:

The City of El Paso (the "city") seeks clarification of our application of section 552.111 to certain records in light of Open Records Letter Nos. 97-0962 (1997) and 97-1023 (1997). Your request for clarification was assigned ID# 107461.

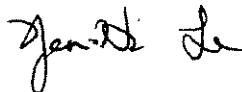
Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas 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.

The records at issue are scoring sheets of members of the A/E Selection Committee and Qualification Review Committee which contain the rater's name, objective evaluation criteria, and the scores each rater gives to each candidate. Based on your argument that each score sheet constitutes a recommendation on the qualifications of a particular candidate and involves a deliberative process, we concluded in Open Records Letter No. 97-0962 (1997) that the scores do not implicate the city's policymaking functions and are not excepted under section 552.111, but that the evaluation criteria may be withheld.

With regards to Open Records Letter No. 97-1023 (1997), you stated that the city did not object to releasing the score sheet. Instead, you argue that the name of each rater should be redacted pursuant to section 552.111 because "disclosure of the raters' names . . . will prevent raters from freely and openly expressing opinions about candidates and their qualifications in future evaluations to the detriment of the city." The raters' names are purely factual information and may not be withheld under section 552.111. Based on your specific argument as to the redaction of the raters' names for Open Records Letter No. 97-1023 (1997), we concluded that you may not withhold any portion of the score sheets under section 552.111.

Generally, section 552.111 is a discretionary exception designed to protect a governmental body's interest and therefore may be waived by the governmental body. *Cf.* Open Records Decision No. 630 (1994) (section 552.107 of the Government Code protects governmental body's interest and may be waived by governmental body). Thus, a governmental body has the burden to submit written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld. Gov't Code § 552.301(b)(1). This office's rulings address the specific arguments submitted by a governmental body in support of its requests for open records decisions. In Open Records Letter No. 97-1023 (1997), your section 552.111 claim addressed the raters' names and we ruled accordingly. We affirm the rulings of both letters. 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# 107461

Enclosures: Submitted documents

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