



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2005

Mr. Gary Grief
Acting Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR2005-09319

Dear Mr. Grief:

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# 234440.

The Texas Lottery Commission (the "commission") received a request for "any and all memo's [and] security reports pertaining to Global 91." You have submitted information that you claim is excepted from disclosure under sections 552.101, 552.111, and 552.139 of the Government Code. You also believe that some of this information may implicate the proprietary interests of Jefferson Wells International ("Jefferson Wells") and GTECH Corporation ("GTECH") under section 552.110. You notified Jefferson Wells and GTECH of the request for this information and of their right to submit arguments to this office as to why the information should not be released.¹ We also received correspondence from GTECH. We have considered all of the submitted arguments and have reviewed the submitted information.

We initially note that an interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no arguments from Jefferson Wells. Thus, Jefferson Wells has not demonstrated that any of the submitted information is proprietary for the purposes of the Act. *See* Gov't Code § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999).

¹*See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

Next, we address the commission's claim under section 552.101 of the Government Code. Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that another statute makes confidential. You raise section 552.101 in conjunction with section 466.022(b) of the Government Code. Section 466.022(b) provides in part:

(b) In addition to commission records excepted from disclosure under Chapter 552 [of the Government Code], the following information is confidential and is exempt from disclosure:

- (1) security plans and procedures of the commission designed to ensure the integrity and security of the operation of the lottery; [and]
- (2) information of a nature that is designed to ensure the integrity and security of the selection of winning tickets or numbers in the lottery, other than information describing the general procedures for selecting winning tickets or numbers[.]

Gov't Code § 466.022(b)(1)-(2). You assert that release of the information that the commission seeks to withhold would compromise the lottery games and threaten the integrity and security of the operation of the lottery. You state that the information in question includes "specific information on the lottery operator's computer applications and communication network architecture, wager transaction processing from retailer terminals to the central host system, and procedures used in the event of an error condition." You also state that the submitted documents contain "information relating to application operating issues and error condition resolution which are [sic] designed to ensure the integrity and security of the lottery system." Based on your representations, we find that all of the information encompassed by the commission's claim under section 552.101 of the Government Code is confidential under section 466.022(b) of the Government Code. We therefore conclude that the commission must withhold all of the information in question under section 552.101.² The rest of the submitted information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited

²As we are able to make this determination, we need not address the commission's other arguments against disclosure or those that we received from GTECH.

from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

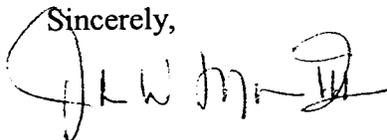
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/seg

Ref: ID# 234440

Enc: Submitted documents

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