



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

October 6, 1988

Honorable Bob Bullock  
Comptroller of Public Accounts  
L.B.J. State Office Building  
Austin, Texas 78774

LO-88-113

Dear Mr. Bullock:

You ask the following question:

May the Comptroller deny a license to conduct bingo if the Comptroller determines that an otherwise qualified organization does not have a membership of sufficient size to ensure that bingo games are conducted fairly and that the proceeds from the games are used for charitable purposes?

The conduct of bingo is governed by the Bingo Enabling Act, article 179d, V.T.C.S. Section 13(c) of article 179d provides:

The comptroller of public accounts shall issue to an applicant a license for the conduct of bingo, or a license renewal, on payment of a license fee in accordance with Subdivision (1) of Subsection (d) of this section, if the comptroller determines that:

(1) the member or members of the applicant designated in the application to conduct bingo are active members of the applicant;

(2) the person or persons under whose name the game or games of bingo will be conducted, and all persons who will work and receive consideration for their work at the proposed bingo games, have never been convicted of a felony, gambling offense, criminal fraud, or a crime of moral turpitude;

(3) the games are to be conducted in accordance with this Act;

(4) the proceeds of the games are to be disposed of as provided by this Act;

(5) no prize will be offered or given in excess of the limits set by Section 11(e) of this Act in any single game and that the aggregate of all prizes offered and given in all of the games conducted on a single occasion under the license will not exceed the limits set by Section 11(f) of this Act;

(6) the applicant has made and can demonstrate significant progress toward the accomplishment of the purposes of the organization during the 12-month period preceding the date of application for a license or license renewal; and

(7) all persons who will conduct, promote, administer, or assist in conducting, promoting, or administering the proposed bingo games are active, bona fide members of the applicant organization.

Although the size of an organization may be relevant to whether an organization can meet one or more of the criteria set out above, size alone is not a basis for denial of a license.

You state that your office regularly receives applications from organizations that have fewer than five members. It is certainly possible that such an organization would be unable to satisfy subsection (7) of section 13(c), which requires that "all persons who will conduct, promote, administer, or assist in conducting, promoting, or administering the proposed bingo games are active, bona fide members of the applicant organization." Again, however, the denial of a license to "an otherwise qualified organization" must be based on the organization's failure to meet one of the requirements set out above, not merely on its size.

Very truly yours,



Sarah Woelk, Chief  
Letter Opinion Section  
Opinion Committee

SW/bc