



The Attorney General of Texas

November 30, 1981

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Mr. Alex Huddleston
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Open Records Decision No. 291

Re: Whether city application to Department of Housing and Urban Development for funds for water treatment plant is available under the Open Records Act

Dear Mr. Huddleston:

Your request for our decision under the Open Records Act, article 6252-17a, V.T.C.S., concerns an application which the city of Rio Hondo submitted to the Department of Housing and Urban Development for federal funds to construct a new water treatment plant. You contend that you are entitled to withhold this application from public disclosure under sections 3(a)(4) and/or 3(a)(5) of the Open Records Act.

Section 3(a)(4) excepts from disclosure:

information which, if released, would give advantage to competitors or bidders.

Section 3(a)(5) excepts:

information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor.

The Department of Housing and Urban Development approved the application in question. In support of your contention that you may withhold it from the public at this time, you state as follows:

Until all bids have been let and the real property necessary for construction of the water treatment plant has been acquired, it is believed that disclosure of the grant application could have an

adverse effect on the project. The city does not yet own the real property where the proposed water treatment plant is to be located, and has not opened the bidding for construction of the plant. The grant application contains detailed information regarding the desired location of the plant, as well as estimates of construction costs. If this information is revealed at this time, the city's negotiating position could be seriously weakened since the amounts budgeted for acquisition of land and construction costs and the location of the land to be acquired might be discovered by prospective bidders or owners of the land the city wishes to acquire.

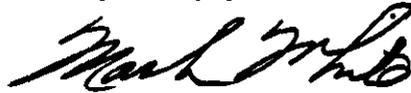
Open Records Decision No. 234 (1980) dealt with a request for plans, locations and cost estimates relating to a proposed reservoir and water line project. At the time that request for an Open Records decision was presented to this office, the project was in the planning and negotiation stage. No decision as to location had been made and no property had been purchased. Relying in part upon Open Records Decision No. 5 (1973), which concluded that a study could be withheld if it was still the basis for good faith negotiations regarding the purchase by the city of the particular property in question, Open Records Decision No. 234 held as follows:

So long as negotiations regarding the purchase of a site for the reservoir and water line have not been completed, we believe that the city may withhold all proposed plans, locations and cost estimates under section 3(a)(5). When the transaction has been completed, all factual information relating to the project will become available to the public.

Compare Open Records Decision No. 222 (1979) (private consulting firm's study of possible sites for sludge treatment plant not excepted from disclosure after site had been purchased).

We believe the reasoning of Open Records Decision No. 234 is applicable to your request. We therefore conclude that the application in question may be withheld from public disclosure at this time. When the transactions in question are completed, factual information relating to the project will become available to the public.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark White", written in a cursive style.

MARK WHITE
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