



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

September 4, 1990

Mr. Allen P. Beinke
Executive Director
Texas Water Commission
P.O. Box 13087
Capitol Station
Austin, Texas 78711-3087

OR90-425

Dear Mr. Beinke:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9965.

The Texas Water Commission received an open records request for the proposals of the three finalists for three computer system contracts. Pursuant to section 7(c) of the Open Records Act, you requested a decision from this office as to whether the requested information comes under the protection of section 3(a)(10) and chose not to submit any legal arguments with regard to that section, relying instead upon the assertions, if any, of the parties who may have a proprietary interest in the information.

This office contacted the three companies who had informed you that their respective proposals contained either trade secrets or confidential commercial/financial information. Of those three companies, only one responded to our request for legal arguments as to whether and to what extent their proposals come under the protection of section 3(a)(10). Consequently, the proposals of the remaining two companies, Peat Marwick Main & Company and Ernst & Young, are presumed to be public. Although the representative for Andersen Consulting did respond to our request, the additional information he submitted to this office was insufficient for a determination that the information at issue is in fact deemed confidential by law; consequently the proposal of Andersen Consulting must also be released.

Finally, you seek clarification as to when the protection of section 3(a)(4) of the Open Records Act is no longer applicable. Section 3(a)(4) of the Open Records Act

protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." You inquire whether section 3(a)(4) protection ends "once a contract has been awarded," see Open Records Decision No. 514 (1988), or whether it ends when the contract is "in effect." See Open Records Decision No. 306 (1982). Since the contract has gone through all approvals and is now in effect, we need not address this question.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-425.

Yours very truly,



Jim Moellinger
Assistant Attorney General
Opinion Committee

JM/RWP/le

Ref.: ID# 9965
ID# 9067

Enclosure: Submitted documents

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