



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 24, 1996

Mr. Les Romo
Attorney at Law and Mediator
Hartland Plaza
1717 West Sixth Street, Suite 350
Austin, Texas 78703

OR96-1925

Dear Mr. Romo:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101465.

The El Paso County Water Authority (the "authority") received a request for the "complete analysis for the \$1.9M cost for the GLO option for waste water disposal as sated [sic] by Director Santo during the regular meeting of the Board of Directors, August 1, 1996." You contend that the requested cost analysis, a copy of which you have submitted to this office for review, is excepted from disclosure under sections 552.104 and 552.105 of the Government Code.

Section 552.104 excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." The purpose of this exception is to protect a governmental body's interests in competitive bidding situations. *See* Open Records Decision No. 592 (1991). Section 552.104 requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a competitor will gain an unfair advantage will not suffice. Open Records Decision No. 541 (1990) at 4. Section 552.104 does not except information relating to competitive bidding situations once a contract has been awarded. Open Records Decision Nos. 306 (1982); 184 (1978).

You state that the authority is negotiating the sale and disposal of its waste water effluent with the General Land Office (the "GLO"), but that the authority has not reached a final agreement with the GLO. You also state that the GLO has a competitor in this matter, Commercial Real Estate Services, with whom the authority is also negotiating. You have demonstrated that releasing the cost analysis would jeopardize the authority's negotiating position with both the GLO and Commercial Real Estate Services. Under these circumstances, we conclude that the authority may withhold the cost analysis from disclosure pursuant to section

552.104. Because section 552.104 excepts the cost analysis from disclosure, we need not address your claim that section 552.105 also excepts it from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 101465

Enclosures: Submitted documents

cc: Mr. Kieth Kennedy
15311 Northport
El Paso, Texas 79927
(w/o enclosures)