



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 3, 1998

Ms. Joanne Wright  
Associate General Counsel  
Texas Department of Transportation  
Dewitt C. Greer State Highway Building  
125 E. 11th Street  
Austin, Texas 78701-2483

OR98-0887

Dear Ms. Wright:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113991.

The Texas Department of Transportation (the "department") received a request for

the [department] fair market value appraisal of certain tracts of land identified as tracts 2, 3, 4, and 5 in the "Selected Land Uses Ft. Bend-Harris/Southwest-West STUDY AREA" as such are represented on the [department] map of Fort Bend County, Texas.

You claim that the requested information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.104 excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." The purpose of this exception is to protect the purchasing interests of a governmental body, usually in competitive bidding situations prior to the awarding of a contract. Open Records Decision No. 593 (1991) at 2. Section 552.104 requires a showing of some actual or specific harm in a particular competitive situation. Open Records Decision 541 (1990) at 4.

You state that "[a]t this point, marketing has begun in earnest and we are ready to begin accepting bids on the property." You also state that release of the requested information "would give an advantage to any bidder . . . and would impair the State's ability to get the best possible price for the property." Based on your representations, we conclude

that you may withhold, at this time, the requested information from required public disclosure under section 552.104. However, once the bidding process is completed and the terms of an agreement have been finalized, you may not rely on section 552.104 to withhold this information. Open Records Decision No. 541 (1990) at 5.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch  
Assistant Attorney General  
Open Records Division

VDP/alg

Ref.: ID# 113991

Enclosures: Submitted documents

cc: Mr. Mark Alexander  
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Houston, Texas 77083  
(w/o enclosures)