



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 22, 1998

Mr. Paul M. González
Matthews and Branscomb
106 South St. Mary's Street, Suite 700
San Antonio, Texas 78205

OR98-3236

Dear Mr. González:

On behalf of the City Public Service Board of San Antonio ("CPS"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 120952.

CPS received a request for the current contract between the City of Hondo and CPS and the monthly billings for 1998. You have released parts of the contract to the requestor. You assert that sections 4.2, 5.1, 5.2, and Attachments A and B of the contract, as well as the billing information, are excepted from required public disclosure based on section 552.104 of the Government Code.¹

Section 552.104 states that:

Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.

The purpose of this exception is to protect the interests of a governmental body usually in competitive bidding situations. *See* Open Records Decision No. 592 (1991). This exception protects information from public disclosure if the governmental body demonstrates potential specific harm to its interests in a particular competitive situation. *See* Open Records Decision Nos. 593 at 2 (1991), 463 (1987), 453 at 3 (1986). In order to withhold information

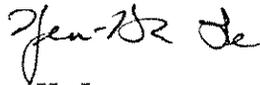
¹We note that you have withdrawn your initial assertion of section 552.110.

from disclosure based on section 552.104, a governmental body must show that release of the requested information could cause specific harm to that body's legitimate marketplace interests. Open Records Decision No. 593 at 9 (1991).

A municipal utility is authorized by statute to engage in competition. *See* Open Records Letter No. 96-1307 (1996). After reviewing your arguments, we conclude that CPS has not established that release of the requested information could cause specific harm to its marketplace interests in a particular competitive situation. Accordingly, we conclude that CPS may not withhold sections 4.2, 5.1, 5.2, and Attachments A and B of the contract or the billing information from the requestor based on section 552.104 of the Government Code. Furthermore, the general terms of a contract with a governmental body are not usually excepted from disclosure. Gov't Code § 552.022(3); *see* Open Records Decision No. 541 at 8 (1990) (terms of contract with state agency). *Cf.* Open Records Decision No. 514 (1988) (public has an interest in knowing prices charged by government contractors).

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 120952

Enclosures: Submitted documents

cc: Mr. Chavel Lopez
Hondo Empowerment Committee
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Hondo, Texas 78861
(w/o enclosures)