



September 17, 1999

Ms. Susan Rocha
Denton, McKamie & Navarro, P.C.
1700 Tower Life Building
310 South St. Mary's Street
San Antonio, Texas 78205-3111

OR99-2603

Dear Ms. Rocha:

You ask whether certain information is subject to required public disclosure under the, Texas Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 128075.

The City of Boerne (the "city") received a request for the "cost of gas for [the] last 12 months (by month)(per MCF cost)." You raise no exception to the required public disclosure of the requested information. You inform us that the city has entered into a contract with P G & E Reata Energy, L.P. ("the gas company"), under which the gas company supplies gas to the city. You cite a provision in this contract in which the contract parties agree to keep the contract confidential,¹ the city agrees to notify the gas company of the receipt of a request for the contract or any of its terms, and the gas company agrees to provide briefing to this office about why the contract or any of its terms and conditions should not be released to the public under the Act. You state that the city has so informed the gas company.

We have received no briefing from the gas company on this issue. The public has a strong interest in the public release of prices charged in government contracts. *See* Gov't Code § 552.022(3); *cf.* Open Records Decision No. 494 (1988) (requiring balancing of public interest in disclosure with competitive injury to company). The disclosure of prices charged the government is a cost of doing business with the government. *See generally* Freedom of Information Act Guide & Privacy Act Overview (1999) 151-152 (concerning federal cases

¹A governmental body's promise in a contract to keep information confidential is not a basis for excepting information from required public disclosure under the Act unless the governmental body has express authority to make such a promise. *See* Attorney General Opinion JM-672 at 2 (1987); Open Records Decision No. 514 at 1 (1988).

applying exemption in Freedom of Information Act, section 552 (b)(1)(A)(4) of title 5 of the United States Code, to prices charged in awarded government contracts). Accordingly, the city must release the requested information to the requestor.

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.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/nc

Ref.: ID# 128075

Encl. Submitted documents

cc: Mr. Norman Berthusen
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(w/o enclosures)

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