



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 19, 2012

Ms. Sharon Alexander  
Assistant General Counsel  
Texas Department of Transportation  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701

OR2012-05597

Dear Ms. Alexander:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 453037.

The Texas Department of Transportation (the "department") received a request for all the property purchased and the sales price paid by the department for a portion of a specified road project. You claim that the submitted representative sample of information is excepted from disclosure under section 552.105 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

We note that Exhibit B is subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part, as follows:

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The spreadsheet of purchased property and corresponding purchase price in Exhibit B are subject to section 552.022(a)(3). You seek to withhold the information at issue under section 552.105. However, section 552.105 is discretionary in nature and does not make information confidential under the Act. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, §§ 3-21, 23-26, 28-37 (providing for "confidentiality" of information under specified exceptions); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 564 (1990) (statutory predecessor to section 552.105 subject to waiver). Therefore, the department may not withhold the information at issue under section 552.105. As you raise no other exception to disclosure of the information in Exhibit B, it must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/bhf

Ref: ID# 453037

Enc. Submitted documents

c: Requestor  
(w/o enclosures)