



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 2, 2019

Mr. Juan S. Gonzalez
Assistant General Counsel
El Paso Water
P.O. Box 511
El Paso, Texas 79961-0511

OR2019-27601

Dear Mr. Gonzalez:

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# 789318 (ORR# W062111).

El Paso Water Utilities – Public Service Board (the "board") received a request for any agreement between the board and the City of El Paso related to a specified property during a specified time period. The board claims the submitted information is excepted from disclosure under sections 552.104, 552.105, and 552.106 of the Government Code. We have considered the exceptions the board claims and reviewed the submitted information.

Section 552.105 of the Government Code excepts from disclosure information relating to Appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. @ Gov't Code ' 552.105(2). Section 552.105 is designed to protect a governmental body's planning and negotiating position with respect to particular transactions. Open Records Decision Nos. 564 at 2 (1990), 357 (1982), 310 (1982). Information that is excepted from disclosure under section 552.105 that pertains to such negotiations may be excepted from disclosure so long as the transaction relating to that information is not complete. *See* ORD 310. But the protection offered by section 552.105 is not limited solely to transactions not yet finalized. This office has concluded that information about specific parcels of land obtained in advance of other parcels to be acquired for the same project may be withheld where release of the information would harm the governmental body's negotiating position with respect to the remaining parcels. *See* ORD 564 at 2. A governmental body may withhold information "which, if released, would impair or tend to impair [its] 'planning and negotiating position in regard to particular transactions.'" ORD 357 at 3 (quoting Open Records Decision No. 222 (1979)). The question of whether specific information, if publicly released, would impair a governmental

body's planning and negotiating position with regard to particular transactions is a question of fact. Accordingly, this office will accept a governmental body's good-faith determination in this regard, unless the contrary is clearly shown as a matter of law. See ORD 564.

The board represents the information at issue relates to ongoing negotiations for the purchase of lands. The board indicates it has made a good-faith determination the submitted information relates to properties it intends to purchase and information that would affect the prices of parcels that have yet to be purchased. The board states if the information is released, its negotiating position will be compromised in ongoing and future land transactions. After review of the information at issue and consideration of the arguments, we find the board may withhold the submitted information under section 552.105 of the Government Code.¹

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

Ref: ID# 789318

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.