



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 20, 2009

Ms. Alva I. Trevino
Deputy General Counsel
Metropolitan Transit Authority of Harris County
P.O. Box 61429
Houston, Texas 77208-1429

OR2009-02248

Dear Ms. Trevino:

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# 336440 (MTA No. 2009-0051).

The Metropolitan Transit Authority of Harris County ("METRO") received a request for "real property contracts + surveys, on all property that has been purchased [or] closed on (full or partial purchases) from January 2007 to Dec 10, 2008" for (a) the North LRT Alignment, (b) the Intermodal Terminal Project property, (c) the Southeast LRT Alignment, and (d) the East LRT Alignment. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of the requested information.¹ We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

We note that the information at issue consists of executed contracts related to the expenditure of public or other funds by METRO, a governmental body. Thus, this information is subject to section 552.022(a)(3) of the Government Code, which provides:

¹We 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.

[T]he following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(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). Accordingly, METRO may withhold the information at issue only if it is "expressly confidential under other law." Although you raise section 552.103 of the Government Code, this section is a discretionary exception to disclosure that protects the governmental body's interests and which may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.— Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 (1999) (governmental body may waive section 552.103). As such, section 552.103 is not "other law" that makes information confidential for the purposes of section 552.022. Therefore, METRO may not withhold the submitted information under section 552.103. As you raise no other exceptions to disclosure, METRO must release the information at issue to the requestor.

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, 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 at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

Ref: ID# 336440

Enc. Submitted documents

cc: Requestor
(w/o enclosures)
