



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 16, 2010

Mr. Kipling D. Giles
Senior Counsel, Legal Services Division
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296

OR2010-02309

Dear Mr. Giles:

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# 370361.

The City Public Service Board of the City of San Antonio, dba CPS Energy ("CPS") received nine requests from the same requestor for information relating to the Dark Screen Cybersecurity Exercise ("Dark Screen").¹ You inform us that some of the requested information either has been or will be released. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.133, and 552.139 of the Government Code. You also believe that these requests for information may implicate the interests of a third party. You inform us that the third party was notified of these requests for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure

¹You inform us that CPS asked the requestor to clarify or narrow his requests, but the requestor stated he was unable to do so. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

under certain circumstances).² We have considered the exceptions you claim and reviewed the information you submitted.

As amended by the 81st Legislature, section 552.139 of the Government Code provides in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report; and

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use.

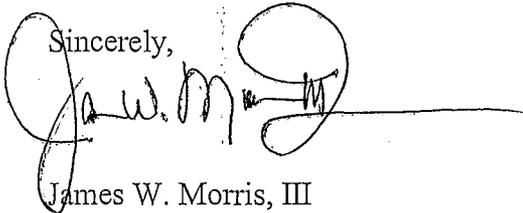
Gov't Code § 552.139(a)-(b). You state Dark Screen was a joint cyber-terrorism exercise sponsored by the Center for Infrastructure Assurance and Security at the University of Texas at San Antonio. You indicate the submitted information was generated in connection with CPS's participation in Dark Screen. You explain the submitted information describes the vulnerabilities of external and internal security measures for guarding CPS's computer resources. You state the information discusses the susceptibility of CPS's computer network, and data stored on the network, to unauthorized access or harm. You contend the release of this information "could have devastating effects" on CPS's computer systems, its generation, transmission, and distribution operations, and the community at large. Based on your representations and our review of the information at issue, we conclude CPS must withhold the submitted information under section 552.139 of the Government Code. As we are able to make this determination, we do not address the other exceptions you claim.

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.

²As of the date of this decision, this office has received no correspondence from the third party CPS notified.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.W. Morris, III', with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 370361

Enc: Submitted documents

c: Requestor
(w/o enclosures)

Ms. Florenza Bruni
UTSA Center for Infrastructure Assurance and Security
c/o Mr. Kipling D. Giles
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296
(w/o enclosures)