



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 30, 2010

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

OR2010-13135

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# 392153.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received three requests for the bid tabulation related to RFP 7000093690. Although you take no position with respect to the public availability of the submitted information, you indicate its release may implicate the proprietary interests of FMO, Inc. ("FMO") and Columbia Contracting, Inc. ("Columbia"). Accordingly, you notified FMO and Columbia of the request and of their right to submit arguments to this office as to why the submitted information pertaining to them should not be released.<sup>1</sup> See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and

---

<sup>1</sup>You inform us you also notified L.C. Mosel; Mueller & Wilson, Inc.; and A.J. Monier & Co., Inc. of the request but none of these companies object to the release of the requested information pertaining to them.

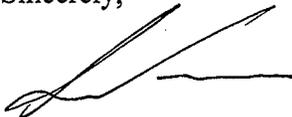
explain the applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from FMO or Columbia explaining why their information should not be released. Therefore, we have no basis to conclude either FMO or Columbia has protected proprietary interests in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, CPS may not withhold any portion of the submitted information on the basis of any proprietary interest FMO or Columbia may have in the information. As no exceptions to disclosure have been raised, CPS must release the submitted information.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 392153

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Kurt Mosel  
L.C. Mosel Company  
18980 Redland Road  
San Antonio, Texas 78259  
(w/o enclosures)

Mr. Dewane Schott  
Mueller & Wilson, Inc.  
12747 Cimarron Path  
San Antonio, Texas 78249  
(w/o enclosures)

Mr. Waylen Pape  
FMO, Inc.  
5221 Port Entry  
San Antonio, Texas 78222  
(w/o enclosures)

Mr. Robert Hood  
A.J. Monier & Co., Inc.  
1446 N. Flores Street  
San Antonio, Texas 78212  
(w/o enclosures)