



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 19, 2010

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

OR2010-15843

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# 397253.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received a request for the bid recap for Request for Qualifications No. 7000093700 for Non-Ceramic Composite Insulators.¹ You state HD Supply Utilities, LTD. does not object to the release of their information and you will release this information to the requestor. Although you raise no exceptions to disclosure of the submitted information, you state release of this information may implicate the proprietary interests of third parties. You inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, CPS notified KBS Electrical Distributors, Stuart C. Irby Company, Techline LTD, and Wesco Distribution, Inc. of the request and of their right to submit arguments to this office explaining why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

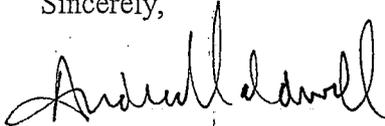
¹We note the requestor clarified the request to exclude warranty and price adder information. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

An interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to the third party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no correspondence from any of the notified third parties. Thus, because these third parties have not demonstrated that any of the requested information is proprietary for the purposes of the Act, CPS may not withhold any of the information on that basis. *See id.* § 552.110(a)-(b); 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. As no exceptions to disclosure are raised, the submitted information 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, 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,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/em

Ref: ID# 397253

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Jeff Chandler
WESCO Distribution
c/o Mr. Kipling D. Giles
Senior Counsel
Legal Services Division
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296
(w/o enclosures)

Mr. John Schwartze
Techline LTD
c/o Mr. Kipling D. Giles
Senior Counsel
Legal Services Division
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296
(w/o enclosures)

Mr. Ricky Z.
KBS Electrical Distributors, Inc.
c/o Mr. Kipling D. Giles
Senior Counsel
Legal Services Division
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296
(w/o enclosures)

Mr. Rene Diaz
Stuart C. Irby Company
c/o Mr. Kipling D. Giles
Senior Counsel
Legal Services Division
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296
(w/o enclosures)