



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2011

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

OR2011-01163

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# 406705.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received a request for the winning bid for Request for Proposal No. 7000093863—Placement of Temporary Employment Services. Although you take no position with respect to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of Gowdy Consultants ("Gowdy"). You inform us, and provide documentation showing, pursuant to section 552.305 of the Government Code, you notified Gowdy of the request and of its right to submit arguments to this office explaining why its 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 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.

Initially, we note 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 requested information relating to that party should be withheld from

disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Gowdy has not submitted any comments to this office explaining how release of the submitted information would affect its proprietary interests. Accordingly, none of the submitted information may be withheld on the basis of Gowdy's proprietary interests. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret).

Next, we note a portion of the submitted information is subject to section 552.130 of the Government Code.¹ Section 552.130 provides information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(2). Accordingly, CPS must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.

Finally, we note a portion of the remaining information is subject to section 552.136 of the Government Code. Section 552.136 provides "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. Accordingly, CPS must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.²

In summary, CPS must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. CPS must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. CPS must release the remaining 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

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²This office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including an insurance policy number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 406705

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Olga Gowdy
Gowdy Consultants
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San Antonio, Texas 78247
(w/o enclosures)