



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 17, 2011

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

OR2011-08636

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# 422437.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received a request for the awarded vendor's bid from the most recently awarded bid for gasoline, diesel, and fuel oil. Although you state CPS takes no position with respect to the public availability of the requested information, you state its release may implicate the proprietary interests of RKA Petroleum Companies, Inc. ("RKA"). Accordingly, you notified RKA of the request 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); *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 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) of the Government Code 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 RKA explaining why the submitted information should not be released. Therefore, we have no basis to conclude RKA has protected proprietary interests in this 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. Consequently, CPS may not withhold any of the submitted information on the basis of any proprietary interests RKA 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, 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eb

Ref: ID# 422437

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Michelle Shively
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(w/o enclosures)