



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 2, 2011

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

OR2011-12793

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# 428739.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received four requests from four different requestors for the bid tabulation for a specified request for quotation. You state that, although CPS takes no position with respect to the requested information, it may implicate the interests of third parties. Accordingly, you state and provide documentation demonstrating CPS notified the third parties of the requests for information and of their right to submit arguments stating why their respective information should not be released.¹ See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open

¹The third parties notified pursuant to section 552.305 are: Austin Constructors, LLC ("Austin Constructors"); Dorazio Enterprises, Inc. ("Dorazio"); JAMCO Ventures, LLC ("JAMCO"); Lambda Construction I, Ltd. ("Lambda"); MJC & Associates; MLP Ventures, Inc. ("MLP"); Myers Construction, L.P.; and V.K. Knowlton Construction & Utilities, Inc.

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.

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 it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). You state Austin Constructors, Dorazio, JAMCO, Lambda, and MLP do not object to release of their respective information. As of the date of this letter, this office has not received comments from the remaining third parties explaining why their information should not be released to the requestors. Thus, we have no basis to conclude that the release of any portion of the requested information would implicate the remaining third parties' interests. *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, we conclude that CPS may not withhold the requested information on the basis of any interest the remaining third parties may have in the information. As you raise no exceptions against disclosure of the requested information, it 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/bs

Ref: ID# 428739

Enc. Submitted documents

c: Requestors
(w/o enclosures)

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