



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 28, 2011

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

OR2011-15821

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# 435223.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received requests from five different requestors for the bid tabulations pertaining to RFQ 7000104159 - 10328628 for 3 Year Fence-Gate Repairs and Installation. Although you state CPS takes no position with respect to the public availability of the submitted bid tabulations, you state their release may implicate the proprietary interests of Duo Construction, LLC ("Duo") and Paloma Blanca Enterprises, Inc. ("Paloma").<sup>1</sup> Accordingly, you state, and provide documentation showing, CPS notified Duo and Paloma of the request and of each company's right to submit arguments to this office as to why their 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) 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 Duo or Paloma explaining why their submitted bid tabulation information should not be released. Therefore, we have no basis to conclude Duo and Paloma have protected proprietary interests

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<sup>1</sup>You also inform us six other interested third parties have notified CPS they do not object to the release of their requested bid tabulation information.

in their 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 Duo's or Paloma's submitted information on the basis of any proprietary interest Duo or Paloma may have in the information. As no exceptions have been claimed for the submitted information, CPS must release it.

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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 435223

Enc. Submitted documents

c: 5 Requestors  
(w/o enclosures)

Ms. Joann Garza  
Duo Construction, LLC  
1210 Edris  
San Antonio, Texas 78224  
(w/o enclosures)

Ms. Jennifer Wood  
Paloma Blanca Enterprises, Inc.  
4901 McCullough  
San Antonio, Texas 78212  
(w/o enclosures)