



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2012

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

OR2012-14676

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# 465047.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received a request for post bid information for a specified project, to include base low bid information for the three low bidders, the low bidders' bid amounts, if the contract has been awarded and to whom, how many bids were received, and the bidders' telephone numbers. Although you take no position as to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation demonstrating, CPS notified Dis-Tran Steel, LLC; Fapco; Unigus, LLC; and Valmont Industries (collectively, the "third parties") of the request for information and of their right to submit arguments stating 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); 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 you have not submitted the requested bidders' telephone numbers. Thus, to the extent such information existed and was maintained by CPS on the date CPS received

the request for information, we presume CPS has released it. If not, CPS must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

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). As of the date of this letter, this office has not received comments from any of the third parties explaining why their information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the requested information would implicate any of the 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 any of the requested information on the basis of any interest a third party 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 465047

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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