



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 31, 2012

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

OR2012-17385

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# 469810.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received two requests for information related to a specified request for proposals.¹ Although you take no position on whether the requested information is excepted from disclosure, you state release of this information may implicate the proprietary interests of A-Plus Energy Management-Air Conditioning-Heating, Atlas Efficiency Solutions, Apple Energy, Eco-Synergy Advisors, Gaia, LGO Services, M&M, Target, Inc., Sage, Masco Williams Insulation, and Your Home Check. Accordingly, you have notified these third parties of the request and of their right to submit arguments to this office as to why their information should not be released. See Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

¹You note that CPS received clarification of the information requested from the first requestor. See Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, we have not received correspondence from any of the third parties. Thus, none of the interested third parties have demonstrated that they have a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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, CPS may not withhold the submitted information on the basis of any proprietary interests these third parties may have in the information. As no exceptions to disclosure have been raised, the submitted information 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 469810

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

Atlas Efficiency Solutions
7801 North Lamar Boulevard, Suite A130
Austin, Texas 78752
(Third party w/o enclosures)

Apple Energy Group
4501 Spicewood Springs Road, Suite 1033
Austin, Texas 78759
(Third party w/o enclosures)

Eco-Synergy Advisors
c/o Mr. Kipling D. Giles
Senior Counsel
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296-1771
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The Gaia Group, Inc.
c/o Mr. Kipling D. Giles
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LGO Services
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M&M Weatherization
627 North Colorado Street
San Antonio, Texas 78207
(Third party w/o enclosures)

Target Restoration
5113 Steinbeck Bend Road
Waco, Texas 76708
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Sage
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Masco Williams Insulation
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