



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 8, 2009

Ms. Zandra L. Pulis
Senior Counsel
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296

OR2009-06145

Dear Ms. Pulis:

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# 342566.

The City Public Service Board for the City of San Antonio d/b/a CPS Energy ("CPS Energy") received two requests for information pertaining to a specified project. Although CPS Energy takes no position on whether the information at issue is excepted from disclosure, you state its release may implicate the proprietary interests of certain third parties. Accordingly, you inform us, and provide documentation showing, you notified Cantu Contracting, Inc. ("Cantu"), Cribley Enterprises ("Cribley"), Green Grass ("Green"), and Maldonado Nursery & Landscaping, Inc. ("Maldonado") of the request and of their rights to submit arguments as to why the information at issue should not be released.¹ See Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). You inform us Cribley does not object to the release of its information. We have reviewed the submitted information.

Initially, we note a portion of one of the requests includes questions. We note the Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to

¹You inform us Dozer Services, Site Master, and Southern Brush no longer exist and, thus, were not notified.

relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume CPS Energy has made a good faith effort to do so.

Next, we note 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, we have not received any arguments from Cantu, Green, or Maldonado. We thus have no basis for concluding these companies' information is proprietary, and CPS Energy may not withhold this information on that basis. *See* 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 (1990). Accordingly, because no arguments against disclosure of the submitted information have been raised, 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 at (512) 475-2497.

Sincerely,



Olivia A. Maceo
Assistant Attorney General
Open Records Division

OM/eeg

Ref: ID# 342566

Enc. Submitted documents

c: Requestor (2)
(w/o enclosures)