



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 19, 2009

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

OR2009-14757

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# 358667.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received a request for the price paid for traffic cones, the number of bidders for the contract to provide CPS with the traffic cones, and the name of the vendor awarded that contract. You state CPS has released the number of bidders and the name of the vendor awarded the contract. Although CPS takes no position with respect to the public availability of the remaining requested information, you believe that the request may implicate the proprietary interests of RoadRunner Traffic Supply, Inc. ("RoadRunner"). Accordingly, you state, and provide documentation showing, CPS notified RoadRunner of this request for information and of its right to submit arguments to this office as to why the information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

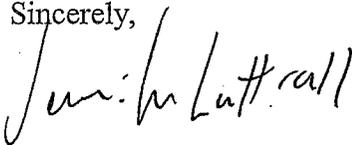
We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from RoadRunner explaining why the submitted information should not be released. Therefore, we have no basis to conclude that RoadRunner has a protected proprietary interest in the

submitted 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. Accordingly, CPS may not withhold any portion of the submitted information on the basis of the proprietary interests of RoadRunner. Thus, 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](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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/dls

Ref: ID# 358667

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Teresa Johnson  
RoadRunner Traffic Supply, Inc.  
P.O. Box 122837  
Fort Worth, Texas 76121  
(w/o enclosures)