



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 20, 2009

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

OR2009-16582

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# 362066.

The City of San Antonio, acting by and through the City Public Service Board ("CPS") received a request for purchase orders issued by CPS arising from a specified contract.¹ CPS takes no position on whether the submitted information is excepted from disclosure, but states that release of a portion of this information may implicate the proprietary interests of Neopost, Inc. ("Neopost"), an interested third party. Accordingly, you inform us, and provide documentation showing, that you notified Neopost of the request and of its right to submit arguments to this office as to why its 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.

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) of the Government Code 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 Neopost. We, thus, have no basis for concluding that any portion of the submitted information constitutes the proprietary information of Neopost. *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

¹You inform us the requestor clarified his request for information. *See* Gov't Code § 522.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

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 of the submitted information based on the proprietary interests of Neopost. As no exceptions against the disclosure of the submitted information are raised, the submitted information must be released to the requestor.

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,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/jb

Ref: ID# 362066

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Kirk A. Shankle
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Hayward, California 94544
(w/o enclosures)