



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 28, 2015

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

OR2015-20285

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# 580943.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS Energy") received a request for 1) information regarding contract employees employed to provide training at each power plant in San Antonio, during a specified period of time, and 2) copies of the most recent contracts for contract employees employed by CPS Energy in 2014 and 2015. You state you will release some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of certain third parties, namely: Life Cycle Engineering, Inc.; GP Strategy Corporation; Compliance Assurance Associates, Inc.; Control Solutions, Inc.; Storm Technologies, Inc.; WD Associates, Inc.; and McGuire & Associates Consulting. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why the submitted 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.

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. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any

of the third parties explaining why the responsive information should not be released. Therefore, we have no basis to conclude any third party has a protected proprietary interest in the responsive 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, CPS Energy may not withhold the submitted information on the basis of any proprietary interest the third parties may have in the information.

We note some of the submitted information may be subject to copyright law. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. As no exceptions to disclosure have been raised, CPS Energy must release the submitted information; however, any information protected by copyright may only be released in accordance with copyright law.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Keeney  
Assistant Attorney General  
Open Records Division

JDK/dls

Ref: ID# 580943

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Life Cycle Engineering, Inc.  
4360 Corporate Road  
Charleston, South Carolina 29405-7445  
(w/o enclosures)

GP Strategy Corporation  
6095 Marshales Drive, Suite 300  
Elkridge, Maryland 21075  
(w/o enclosures)

Compliance Assurance Associates, Inc.  
682 Orvil Smith Road  
Harvest, Alabama 35749  
(w/o enclosures)

Control Solutions, Inc.  
4036 Webb Road  
Ravenna, Ohio 44266  
(w/o enclosures)

Storm Technologies, Inc.  
P.O. Box 429  
Albemarle, North Carolina 28002  
(w/o enclosures)

WD Associates, Inc.  
1605 Dooley Road  
Whiteford, Maryland 21160  
(w/o enclosures)

McGuire & Associates Consulting  
201 Woodland Park  
Georgetown, Texas 78633-2007  
(w/o enclosures)