



January 23, 2015

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

OR2015-01357

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# 551267.

The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS") received a request for the bid tabulation and bid evaluation matrix related to a specified procurement. Although you take no position as to whether the submitted information is excepted under the Act, you inform us the release of this information may implicate the proprietary interests of AZZ, Inc.; Foster Wheeler; IRWIN Industries, Inc.; Mechanical Construction Services, Inc.; ProEnergy Services, Inc.; Titan Contracting & Leasing Co., Inc.; and Zachry Holdings, Inc. Accordingly, you state, and provide documentation demonstrating, CPS notified these third parties of the request for information and of their right to submit arguments stating 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) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception 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 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 third party. Therefore, we have no basis to conclude that any third party has any protected proprietary interest in 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 any portion of the submitted information based upon the proprietary interests of any third party. 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.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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/cbz

Ref: ID# 551267

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Scott Roskam, PE
AZZ, Inc.
1615 118th Avenue North
St. Petersburg, Florida 33716
(w/o enclosures)

Mr. Larry Oprea
Foster Wheeler
53 Frontage Road
Hampton, New Jersey 08827-9000
(w/o enclosures)

Mr. Michael Melton, Jr.
Irwin Industries; Power Plant Services
210 Cember Way, Suite E
Summerville, South Carolina 29485
(w/o enclosures)

Mr. Rich Gregg
Mechanical Construction Services, Inc.
P.O. Box 335
Newark, Arkansas 72562
(w/o enclosures)

Mr. Rob Ellington
Pro Energy
616 Cypress Creek Parkway, Suite 750
Houston, Texas 77090
(w/o enclosures)

Ms. Carrie Ware
Titan Contracting & Leasing Company, Inc.
2205 Ragu Drive
Owensboro, Kentucky 42303
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Mr. Ken Smith
Zachry Industrial, Inc.
527 Logwood
San Antonio, Texas 78221
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