



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 22, 2020

Ms. Stacey Cormican
Attorney
CPS Energy
P.O. Box 1771
San Antonio, Texas 78296-1771

OR2020-01956

Dear Ms. Cormican:

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# 807163.

The City Public Service Board of San Antonio d/b/a CPS Energy ("CPS Energy") received a request for the awarded contractor, award amount, and construction start date for contract number 7000155070. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Badeco, Inc.; Benton-Georgia, LLC; Driver Pipeline Company, Inc.; and Mears Installation, LLC. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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.

Initially, we note the requestor only seeks the awarded contractor, award amount, and construction start date. The submitted information includes additional information. This ruling does not address the public availability of any information that is not responsive to the request and CPS Energy is not required to release such information in response to this request.

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 third party 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, 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 Energy may not withhold the responsive information on the basis of any proprietary interest any third party may have in the information. CPS Energy must release the responsive 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Kelly McWethy
Assistant Attorney General
Open Records Division

KM/be

Ref: ID# 807163

Enc. Submitted documents

c: Requestor
(w/o enclosures)

4 Third Parties
(w/o enclosures)