



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 30, 2022

Ms. Stacey Cormican
Attorney
CPS Energy
500 McCullough Avenue
San Antonio, Texas 78215-2104

OR2022-18980

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# 955282.

The City Public Service Board of San Antonio d/b/a CPS Energy ("CPS Energy") received a request for copies of contracts, invoices, and payment ledgers involving MJC Construction ("MJC") during a specified timeframe. 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 MJC.¹ Accordingly, you state, and provide documentation showing, you notified this third party of the request for information and of its right 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 to submit its reasons, if any, as to why info relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from the notified third party. Thus, we have no basis to conclude the notified third party has a protected proprietary interest in the submitted

¹ We note, and you acknowledge, CPS Energy did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nevertheless, because the interests of third parties can provide a compelling reason to overcome the presumption of openness, we will consider whether the submitted information must be withheld under the Act on those grounds. *See id.* §§ 552.007, .302, .352.

information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, CPS Energy may not withhold any portion of the submitted information on the basis of any proprietary interest the notified third party may have in the information. As no exceptions to disclosure have been raised, CPS Energy 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 <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,

Chase D. Young
Assistant Attorney General
Open Records Division

CDY/jxd

Ref: ID# 955282

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)