



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 3, 2020

Mr. Miguel Salinas
Staff Attorney
Brownsville Independent School District
1900 Price Road
Brownsville, Texas 78521-2417

OR2020-03208

Dear Mr. Salinas:

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# 809473 (Brownsville ISD No. 8823).

The Brownsville Independent School District (the "district") received three different requests from the same requestor for specified agreements. You state you have released information responsive to the second request and do not have information responsive to the third request.¹ You claim the submitted information, which is responsive to the first requestor, is excepted from disclosure under sections 552.110 and 552.153 of the Government Code. You state release of the submitted information may implicate the proprietary interests of United Healthcare Services, Inc. ("United"). Accordingly, you state, and provide documentation showing, the district notified the third party of the request for information and of the 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 received comments from United. We have considered the submitted arguments and reviewed the submitted information.

The district and United assert, and we agree, the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2019-01862 (2019). United filed a lawsuit against the Office of the Attorney

¹ The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

General and the district challenging Open Records Letter No. 2019-01862 over the release of its information. A settlement agreement was reached among the parties regarding the disposition of the submitted documents and was adopted by the court in an Agreed Final Judgment in *United Healthcare Services, Inc. v. Paxton*, Cause No. D-1-GN-19-000634 (419th Dist. Ct. Travis County, Tex. June 17, 2019). Accordingly, the district must continue to rely on the Agreed Final Judgment to withhold United's excepted information under section 552.104(a) of the Government Code.² See Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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,



Pearlie Gault
Attorney
Open Records Division

PG/eb

Ref: ID# 809473

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

² As we are able to make this determination, we need not address the district's remaining arguments against disclosure of this information.