



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

March 17, 2020

Mr. Earnie Granville  
Associate General Counsel  
Guadalupe-Blanco River Authority  
933 East Court Street  
Seguin, Texas 78155

OR2020-08445

Dear Mr. Granville:

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# 813795.

The Guadalupe-Blanco River Authority (the "authority") received a request for a specified contract. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the interests of the Kendall County Water Improvement District #3 (the "district") and Bakke Development Corp. ("BDC"). Accordingly, you state, and provide documentation showing, you notified the district and BDC of the request and their right to submit arguments to this office. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have received the comments from a representative of the district and BDC you submitted to our office. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the district and BDC assert the contract at issue was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2018-22982 (2018). In that ruling, we determined, in part, the draft contract at issue may be withheld under section 552.104 of the Government Code. However, we note the contract at issue in the instant request is the executed contract. Thus, the information sought in the present request for information is not the same exact information as the information at issue in the prior ruling. Therefore, the authority may not rely on Open Records Letter No. 2018-22982 as a previous determination for the submitted information. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely the same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, we note the authority states it has released the requested information. Section 552.007 of the Government Code provides, if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure, unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the authority may not now withhold any information that was previously released unless its release is expressly prohibited by law or the information is confidential by law. Although the district and BDC raise section 552.104 for this information, this section does not prohibit the release of information or make information confidential; thus, the contract may not be withheld on that basis. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 592 (1991) (stating that governmental body may waive section 552.104). As no further exceptions to disclosure have been raised, the authority 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,

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/gw

Ref: ID# 813795

c: Requestor

c: Third Party