



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 4, 2020

Mr. Christopher Rigler  
Counsel for Boon-Chapman Benefit Administrators and Soluta, Inc.  
Thompson, Coe, Cousins & Irons, L.L.P.  
Plaza of the Americas  
700 North Pearl Street, Twenty-Fifth Floor  
Dallas, Texas 75201-2832

OR2020-30325

Dear Mr. Rigler:

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# 855276.

Boon-Chapman Benefit Administrators ("Boon-Chapman") and Soluta, Inc. ("Soluta"), which you represent, received two requests from the same requestor for policies and procedures related to the Midland County (the "county") jail in effect during a specified time period and information regarding the death of an inmate in the county jail on a certain date.<sup>1</sup> You state you have released some of the requested information. You claim Boon-Chapman and Soluta are not governmental bodies subject to the Act. Alternatively, you also claim a portion of the submitted information is not subject to the Act and some of the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.117 of the Government Code.<sup>2</sup> Additionally, you state release of the submitted information may implicate the privacy interests of a specified individual. Accordingly, we

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<sup>1</sup> You state you sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup> We note we asked Boon-Chapman and Soluta to provide additional information pursuant to section 552.303 of the Government Code. *See* Gov't Code § 552.303(c)-(d) (if attorney general determines information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice). We have received and considered the correspondence sent by Boon-Chapman and Soluta pursuant to that request.

understand you notified the individual of the request for information pursuant to section 552.304 of the Government Code.<sup>3</sup> *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information, a portion of which consists of a representative sample.<sup>4</sup>

The Act defines “governmental body,” in pertinent part, as:

[T]he part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds[.]

*Id.* § 552.003(1)(A)(xv). “Public funds” means “funds of the state or of a governmental subdivision of the state.” *Id.* § 552.003(5). The Texas Supreme Court has defined “supported in whole or part by public funds” to include only those private entities or their sub-parts sustained, at least in part, by public funds, meaning they could not perform the same or similar services without the public funds.” *Greater Houston P’ship v. Paxton*, 468 S.W.3d 51, 63 (Tex. 2015). Thus, section 552.003(1)(A)(xv) encompasses only those private entities that are dependent on public funds to operate as a going concern, *see id.* at 61, and only those entities acting as the functional equivalent of the government, *see id.* at 62.

You inform us, and provide information demonstrating, Boon-Chapman and Soluta are for-profit, privately-owned entities. You state Boon-Chapman “entered into administrative service agreements with [the county] for health-plan-related services for [c]ounty employees.” You also state Soluta “entered into an Inmate Health Care Services Management Agreement” with the county. However, you note “the public contracts of Boon-Chapman and Soluta make up a relatively small percentage of revenue for both entities, and neither entity is dependent upon public funds to carry on as going concerns.” Based upon your representations and our review, we find Boon-Chapman and Soluta are not sustained by public funds for purposes of the Act. Thus, we find Boon-Chapman and Soluta do not fall within the definition of a “governmental body” under section 552.003(1)(A)(xv) of the Government Code, and are not subject to the Act. Accordingly, Boon-Chapman and Soluta need not respond to the present requests for information under the Act. As we are able to make this determination, we need not consider your claimed exceptions to disclosure of 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.

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<sup>3</sup> As of the date of this letter, we have not received comments from the individual.

<sup>4</sup> We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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,

Deborah Southerland  
Assistant Attorney General  
Open Records Division

DS/gw

Ref: ID# 855276

Enc. Submitted documents

c: Requestor  
(w/o enclosures)