



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 1, 2022

Ms. Audra Gonzalez Welter  
Assistant General Counsel  
The University of Texas System  
210 West Seventh Street  
Austin, Texas 78701-2903

OR2022-15672

Dear Ms. Welter:

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# 950732 (OGC# 204623).

The University of Texas System (the "system") received a request for all contracts between the system and two specified third parties. You state you will redact access device numbers pursuant to section 552.136(c) of the Government Code and dates of birth pursuant to Open Records Letter No. 2016-07336 (2019).<sup>1</sup> Although you take no position as to whether the submitted information is excepted under the act, you state release of the information at issue may implicate the proprietary interests of ABM Industries Incorporated ("ABM") and Project Control of Texas, Inc. ("PCT"). Accordingly, you state, and provide documentation demonstrating, the system notified these interested third parties of the request for information and of their 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 ABM and PCT. We have considered the submitted arguments and reviewed the submitted information.

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<sup>1</sup> Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Open Records Letter No. 2016-07336 authorizes the system to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. *See id.* § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

ABM raises section 552.104 of the Government Code for some of its information. Section 552.104 excepts from disclosure information “if a governmental body demonstrates that release of the information would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.” *Id.* § 552.104(a) (emphasis added). In *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015), the Texas Supreme Court held section 552.104 does not preclude third parties from raising section 552.104 as an exception to disclosure. *See Boeing*, 466 S.W.3d at 842. However, the Eighty-sixth Legislature has amended section 552.104 since the issuance of *Boeing*. *See* Act of May 25, 2019, 86th Leg., R.S., S.B. 943, § 3. Section 552.104 now expressly limits the protections of section 552.104 to governmental bodies. Gov’t Code § 552.104(a). Therefore, we do not address ABM’s argument under section 552.104.

Section 2261.253 provides, in relevant part, as follows:

(a) For each contract for the purchase of goods or services from a private vendor, each state agency shall post on its Internet website:

(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed[.]

*Id.* § 2261.253(a)(1). The contracts at issue are between the system, a state agency, and ABM and PCT, private vendors, for the purchase of goods or services. Further, the contracts have neither expired nor been completed. Accordingly, we find the submitted contracts are contracts described by section 2261.253.

ABM and PCT raise sections 552.110 and 552.1101 of the Government Code for portions of the submitted information. Section 552.0222 of the Government Code provides, in relevant part:

(b) The exceptions to disclosure provided by Sections 552.110 and 552.1101 do not apply to the following types of contracting information:

(1) a contract described by Section 2261.253(a), excluding any information that was properly redacted under Subsection (e) of that section[.]

*Id.* § 552.0222(b)(1). As noted above, the submitted information consists of contracts described by section 2261.253(a) of the Government Code. Additionally, we have no indication any portion of the submitted information was properly redacted under section 2261.253(e). Although ABM and PCT raise sections 552.110 and 552.1101, section 552.0222 expressly states these exceptions do not apply to a contract described by section

2261.253(a). Accordingly, we do not address ABM's and PCT's arguments against disclosure under these exceptions. As no other exceptions to disclosure have been raised, the system 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,

Joseph Hoggatt  
Assistant Attorney General  
Open Records Division

JWH/jxd

Ref: ID# 950732

c: Requestor

2 Third Parties