



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 13, 2022

Ms. Patricia M. Borschow
Assistant General Counsel
El Paso Water Utilities Public Service Board
P.O. Box 511
El Paso, Texas 79961-0511

OR2022-31517

Dear Ms. Borschow:

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# 978844 (Ref. No. EPW07-30).

The El Paso Water Utilities Public Service Board (the "board") received a request for information pertaining to a specified solicitation. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code.¹ Additionally, you state release of the information at issue may implicate the proprietary interests of certain third parties. Accordingly, you state the board 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 considered the exception you claim and reviewed the submitted information.

We note the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2022-26799 (2022). In that ruling, we determined the board must: (1) generally withhold the information we marked and indicated under section 552.110(c) of the Government Code; however, to the extent any of the customer information Allied and Blackstone seek to withhold has been made available to the public by Allied or Blackstone, including but not limited to on their websites or social media accounts, such information is not confidential under section 552.110(c); (2) withhold the public citizens' dates of birth within the remaining information under section

¹ Although the board also raises sections 552.110 and 552.1101 of the Government Code, we note these sections protect the interests of third parties, not the interests of governmental bodies themselves. Thus, we do not address the board's arguments under section 552.110 and section 552.1101 of the Government Code.

552.101 of the Government Code in conjunction with common-law privacy; (3) withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code; and (4) release the remaining 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. You raise section 552.104 of the Government Code for the submitted information; however, we note section 552.104 does not prohibit the release of information or make information confidential. *See id.* § 552.104. Thus, with respect to the information released pursuant to Open Records Letter No. 2022-26799, the board may not now withhold the previously released information under section 552.104. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the board must rely on Open Records Letter No. 2022-26799 as a previous determination and withhold or release the identical information in accordance with that ruling. *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 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,

Colin Henry
Attorney
Open Records Division

CEH/pt

Ref: ID# 978844

Enc. Submitted documents

c: Requestor
(w/o enclosures)