



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2014

Mr. O. Charles Buenger
Counsel for the Chalk Bluff Water Supply Corporation
Buenger & Associates
3203 Robinson Drive
Waco, Texas 76706

OR2014-15147

Dear Mr. Buenger:

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# 534625.

The Chalk Bluff Water Supply Corporation (the "corporation"), which you represent, received a request for information pertaining to invoices with a named individual and company, payments made to anyone paid for reading corporation meters, and purchased equipment. The corporation states it does not have some of the requested information.¹ The corporation claims the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.² We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

²We 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.

Section 552.022(a)(3) of the Government Code provides the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The submitted information consists of invoices. In response to this office's request for additional information under section 552.303 of the Government Code, the corporation informs us all of the invoices submitted for review were paid by the corporation. *See id.* § 552.303(c) (attorney general may give written notice to governmental body that additional information is necessary to render decision). Based on this representation, we determine the submitted information is subject to section 552.022(a)(3) of the Government Code. The corporation asserts this information is excepted from release under section 552.103 of the Government Code. However, section 552.103 is discretionary and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the corporation may not withhold the submitted information under section 552.103. Accordingly, the corporation must release the submitted information to the requestor.³

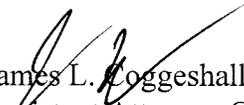
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

³Because we determine the information is subject to section 552.022(a)(3) and must be released to the requestor, we do not address the requestor's assertion the corporation failed to comply with section 552.301 of the Government Code.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 534625

Enc. Submitted documents

c: Requestor
(w/o enclosures)