



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 18, 2013

Ms. Donna García Davidson
Counsel for the Republican Party of Texas and the State Republican Executive Committee
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P.O. Box 12131
Austin, Texas 78711

OR2013-16196

Dear Ms. Davidson:

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# 498317.

The State Republican Executive Committee (the "committee") of the Republican Party of Texas (the "party"), which you represent, received a request for eight categories of information pertaining to the committee for a specified time period. You state the committee has released some of the requested information. You argue the remaining requested information is not subject to the Act because the committee is not a governmental body for purposes of the Act. In the alternative, you claim some of the submitted information is excepted from disclosure under sections 552.104, 552.110, and 552.128 of the Government Code. We have considered your arguments and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

We first address the threshold issue of whether the committee is subject to the Act. The Act applies to "governmental bodies" as that term is defined in section 552.003(1)(A) of the Government Code. Under the Act, the term "governmental body" includes:

- (i) a board, commission, department, committee, institution, agency, or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed members[.]

Id. § 552.003(1)(A)(i). The requestor asserts the committee as a whole meets the definition of a governmental body as provided by section 552.003(1)(A)(i) and is subject to the Act in its entirety because the committee was created by the legislature and is directed by one or more elected members. As part of his argument under section 552.003(1)(A)(i), the requestor contends the committee was created by and is subject to section 171.001 of the Election Code. Additionally, he argues the party's bylaws follow the requirements provided by chapter 171 regarding state executive committee member composition, election, and vacancies. *See* Elec. Code §§ 171.001-.004.

Section 171.001 provides, “[a] state executive committee is established as provided by this subchapter for each political party holding a primary election in this state.” *Id.* § 171.001. Section 171.002 provides the requirements for the composition and election of the state executive committee members. *See id.* § 171.002. You explain the committee is the governing body of the party. You contend the legislature did not create the committee pursuant to section 171.001 because the party created the committee in 1867, which predates section 171.001. *See* House Study Group, Bill Analysis, Tex. S.B. 616, 69th Leg., R.S. (1985). The party's bylaws, which are consistent with the provisions of chapter 171 and are available on the party's website, provide the committee is composed of a chairman, a vice-chairman, and two members from each state-senatorial district, each of whom is elected at the party's biennial state convention. Upon review, we find these committee members, who are elected from the membership of a private association, are not “elected” for purposes of section 552.003(1)(A)(i). This position is supported by opinions from the Texas Supreme Court issued when the predecessors to sections 171.001 through 171.004 were in existence. The Texas Supreme Court noted “officers of a political party, such as members of a party executive committee, are not public or governmental officers, even when provided for by statutory law.” *Wall v. Curie*, 213 S.W.2d 816, 819 (Tex. 1948). The Texas Supreme Court also held “committees of any political party in acting for the party's interests are not acting as officers of the State,” and that “officers of a political party, such as the chairmen of the County Executive Committees and precinct committeemen, although provided for by election laws, are not regarded as public or governmental officers.” *Carter v. Tomlinson*, 227 S.W.2d 795, 799 (Tex. 1950). Accordingly, on the basis of the above factors, we find the committee members are not elected members for the purposes of section 552.003(1)(A)(i); therefore, the committee is not a governmental body subject to the Act on the basis of this subsection.

The requestor also asserts the committee is a governmental body subject to the Act as defined by section 552.003(1)(A)(xii) of the Government Code. Section 552.003(1)(A)(xii) defines “governmental body” as the following:

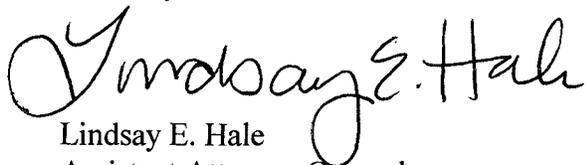
(xii) the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds[.]

Gov't Code § 552.003(1)(A)(xii). You acknowledge the part of the committee that spends or is supported in whole or in part by public funds is a governmental body subject to the Act as defined by section 552.003(1)(A)(xii). This part of the committee performs a state function, that is, conducting primary elections and any associated runoff elections. Elec. Code § 173.033. You state the committee has released information related to this state function to the requestor. The requestor, however, argues some of the remaining requested information also pertains to the part of the committee that spends or is supported by public funds and, thus, is subject to the Act. You disagree and assert the remaining information does not relate to running the primary elections or primary election funds. You state the committee has released all of the requested information it is required to file with the Secretary of State pursuant to sections 173.081 and 173.084 of the Election Code. Upon review of your arguments and the submitted information, we find this information is not subject to the Act and need not be released to the requestor.

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

Sincerely,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 498317

Enc. Submitted documents

c: Requestor
(w/o enclosures)