



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 18, 2016

Ms. Regina Blye
Executive Director
Texas State Independent Living Council
4319 James Casey Street, Suite 100
Austin, Texas 78745

OR2016-06306

Dear Ms. Blye:

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# 602058.

The Texas State Independent Living Council (the "Texas SILC") received a request for funding information for a specified period of time and specified contracts. You state you have released some information. You assert the Texas SILC is not a governmental body subject to the Act.¹ In the alternative, you claim the submitted information is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. We have considered your arguments and reviewed the submitted information.

You assert the Texas SILC is not a governmental body subject to the Act. The Act defines "governmental body" in pertinent part as

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[.]

¹We note we asked the Texas SILC 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 that 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 the Texas SILC pursuant to that request.

Gov't Code § 552.003(1)(A)(xii). "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)(xii) 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.

The Texas SILC informs us it is a private nonprofit corporation. The Texas SILC states a large majority of its funding is from non-public funds. The Texas SILC represents it does not depend on public dollars to operate and states it has a budget from other sources of revenue that is sufficient to maintain operations. Thus, the Texas SILC asserts it would continue to operate as a going concern without public funds. Upon review of your representations, we find the Texas SILC is not sustained by public funds. *See id.* at 63. Therefore, we conclude the Texas SILC is not supported in whole or part by public funds and does not fall within the definition of a "governmental body" under section 552.003(1)(A)(xii) of the Government Code. Thus, the Texas SILC is not subject to the Act. Accordingly, the Texas SILC need not respond to the request for information.²

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,



Kavid Singh
Assistant Attorney General
Open Records Division

KVS/bhf

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 602058

Enc. Submitted documents

c: Requestor
(w/o enclosures)