



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 11, 2016

Mr. Andrew Weber  
Counsel for CareFlite  
Kelly Hart & Hallman LLP  
303 Colorado Street, Suite 2000  
Austin, Texas 78701

OR2016-22820

Dear Mr. Weber:

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# 630088.

CareFlite, which you represent, received a request for six categories of information pertaining to CareFlite's EMS ground and air transport services. You claim CareFlite is not a governmental body subject to the Act. Alternatively, you claim the requested information is excepted from disclosure under sections 552.101, 552.103, 552.104, and 552.110 of the Government Code. We have considered your arguments and reviewed the submitted information.

You assert CareFlite is not a governmental body pursuant to section 552.003(1)(A)(xii) of the Government Code, and, therefore, it is not subject to the Act. Section 552.003(1)(A)(xii) 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[.]

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.*

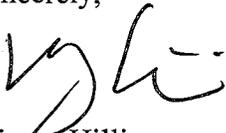
*Paxton*, 468 S.W.3d 51, 63 (Tex. 2015). Thus, section 552.003(1)(A)(xii) encompasses only those private entities that are dependent on public funds to operate as a going concern, *see id.* at 61, and only those entities acting as the functional equivalent of the government, *see id.* at 62.

You state, and provide documentation demonstrating, CareFlite is a private nonprofit section 501(c)(3) corporation that provides “identifiable, measurable, and specific” services to governmental entities pursuant to fee-for-services contracts. You explain some of CareFlite's clients are cities, counties, and emergency service districts for which CareFlite provides emergency and non-emergency transport services pursuant to arms-length contracts for services. You represent CareFlite receives approximately 92% of its revenue from sources other than governmental entities, and would continue to operate as a viable ongoing concern without receiving revenue from contracts with governmental entities. Further, you assert CareFlite does not make decisions for the government, and does not constitute the functional equivalent of a governmental body by providing its services pursuant to its contracts with governmental entities. Based upon your representations and our review, we find CareFlite is not sustained by public funds for purposes of the Act. *See id.* at 63. Consequently, CareFlite does not fall within the definition of a “governmental body” under section 552.003(1)(A)(xii) of the Government Code and is not subject to the Act. Accordingly, CareFlite need not respond to the request for information.<sup>1</sup>

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](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,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/akg

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<sup>1</sup>As we are able to make this determination, we do not address your remaining arguments.

Ref: ID# 630088

Enc. Submitted documents

c: Requestor  
(w/o enclosures)