



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 13, 2016

Ms. Claudia Chahin  
Senior Legal Counsel  
Southwest Key Programs, Inc.  
6002 Jain Lane  
Austin, Texas 78721

OR2016-27542

Dear Ms. Chahin:

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# 637457.

Southwest Key Programs (the "SKP") received a request for information pertaining to (1) real property purchases, sales, leases, and options to purchase in Travis County, during a specified date range; (2) grants for development of any Travis County properties; (3) location and/or relocation of East Austin College Prep, during a specified date range; and (4) any votes taken by the board of directors and any administrative decisions made regarding acquisitions, purchases, sales, leases, and/or use of option to purchase real property in Travis County, during a specified date range.<sup>1</sup> SKP claims it is not a governmental body, and thus, is not subject to the Act. We have reviewed the submitted information and the submitted arguments.

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<sup>1</sup>SKP states it sought and received clarification of the request. See Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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[.]

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.

SKP states it is a non-profit section 501(c)(3) corporation with programming separated into youth justice alternative programs, immigrant children’s shelters, and educational programming. SKP states it is not supported by public funds because it receives only a small portion of its revenue from the state or subdivisions of the state. SKP informs us in fiscal year 2014, SKP had revenue of \$168,051,119 with only 3.36% of its funding obtained from state funding or from a subdivision of the state. Additionally, SKP informs us in fiscal year 2015, it had revenue of \$159,105,798 with just 3.42% of its funding obtained from state funding or from a subdivision of the state. Based on these representations and our review, we find SKP is not sustained by public funds for purposes of the Act. *See id.* at 63. Therefore, SKP 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, SKP need not respond to the present request for information.<sup>2</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

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<sup>2</sup>As we are able to make this determination, we need not address SKP’s remaining argument against disclosure of the submitted information.

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

Sincerely,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 637457

Enc. Submitted documents

c: Requestor  
(w/o enclosures)