



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 27, 2017

Ms. Sonja J. McGill
Counsel for Big Thought
Bell Nunnally Attorneys and Counselors
3232 McKinney Avenue, Suite 1400
Dallas, Texas 75204

OR2017-24564

Dear Ms. McGill:

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# 682085.

Big Thought ("Big Thought"), which you represent, received a request for specified contracts and proposals and e-mail correspondence between Big Thought, four entities, and two named individuals. You state Big Thought has released some of the requested information. Big Thought claims it is not a governmental body, and thus, is not subject to the Act. In the alternative, we understand Big Thought to claim the submitted information is excepted from

disclosure under section 552.110 of the Government Code.¹ We have considered your arguments and reviewed the submitted representative sample of information.²

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.

Big Thought states, and provides documents demonstrating, it is a non-profit section 501(c)(3) corporation. Although Big Thought has contracts with governmental bodies to perform specific and definite services and receives limited public funds through these contracts by being reimbursed for those specific services, Big Thought states, and submits documents demonstrating, it is not supported by public funds because most of its budget comes from fund-raising, private contributions, and tuition fees. Based on your representations and our review of the submitted information, we understand Big Thought is not dependent on the contracts with governmental bodies as a going concern and is not sustained by public funds for purposes of the Act. *See id.* at 63. Therefore, Big Thought 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, Big Thought need not respond to the present request for information.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.

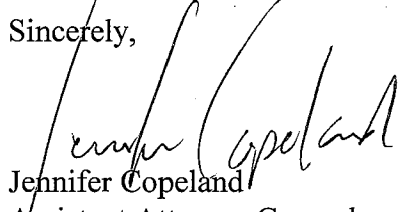
¹We understand Big Thought to raise section 552.110 of the Government Code based on the arguments in it’s brief.

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 that those records contain substantially different types of information than that submitted to this office.

³As we are able to make this determination, we need not address Big Thought’s remaining argument against disclosure of the submitted information.

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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/sb

Ref: ID# 682085

Enc. Submitted documents

c: Requestor
(w/o enclosures)