



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 12, 2018

Mr. C. Robert Heath  
Counsel for Lockhart Chamber of Commerce  
Bickerstaff Heath Delgado Acosta LLP  
3711 South MoPac Expressway, Building One, Suite 300  
Austin, Texas 78746

OR2018-03302

Dear Mr. Heath:

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# 695448.

The Lockhart Chamber of Commerce (the "chamber"), which you represent, received three requests from the same requestor for copies of emails sent or received from any member of the chamber which references topics during a specified time period; phone records from every member of the chamber during a specified time period; and copies of specified documents held by the chamber. You claim the chamber is not a governmental body subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

You assert the chamber 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[.]

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

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<sup>1</sup>We 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 those records contain substantially different types of information than that submitted to this office.

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 chamber states it is a private nonprofit entity. The chamber states it is not supported by public funds because, while it does receive some public funding, 93% of its budget comes from non-public funds. The chamber explains that it is not maintained or sustained by the funds it receives from a governmental body. Thus, the chamber states it does not depend on public funds to operate. Based on our review of the chamber’s representations, we find the chamber is not sustained by public funds for purposes of the Act. *See id.* at 63. Therefore, we conclude the chamber is not sustained 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 and is thus not subject to the Act. Accordingly, the chamber 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Emily Buchanan  
Attorney  
Open Records Division

EB/gw

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

Ref: ID# 695448

Enc. Submitted documents

c: Requestor  
(w/o enclosures)