



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

May 13, 2019

Mr. Nicholas E. Morrell  
Counsel for the North Central Texas Trauma Regional Advisory Council  
Katten, Muchin, Rosenman, LLP  
1301 McKinney Street, Suite 3000  
Houston, Texas 77010-3033

OR2019-12742

Dear Mr. Morell:

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# 765013.

The North Central Texas Trauma Regional Advisory Council (the "council"), which you represent, received a request for specified information pertaining to the council's operations. You claim the council 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 your arguments and reviewed the submitted representative sample of information.<sup>1</sup>

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<sup>1</sup>We assume that 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.

You assert the council 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 the council is a private, nonprofit corporation that provides communication and coordination information between hospitals and emergency service providers in the Dallas-Fort Worth Area. You assert that even though payments through contracts with the Texas Department of State Health Services comprise the majority of the council’s funding, the council would be able to operate as a going concern without these payments. Further, you assert that “an entity like [the council] that supplies services to the government through quid pro quo contracts should not be considered to be . . . acting as the functional equivalent of” the government. Based upon your representations and our review, we find the council is not sustained by public funds for purposes of the Act. *See id.* at 63. Consequently, the council 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, the council need not respond to the 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 do not address your 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,

A handwritten signature in black ink that reads "Patrick P. Mehaffy". The signature is written in a cursive style with a large, prominent initial "P".

Patrick P. Mehaffy  
Assistant Attorney General  
Open Records Division

PPM/mo

Ref: ID# 765013

Enc. Submitted documents

c: Requestor  
(w/o enclosures)