



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 3, 2019

Mr. Tom O'Leary
Counsel for the GEO Group, Inc.
Hudson & O'Leary, L. L. P.
1010 Mopac Circle, Suite 201
Austin, Texas 78746

OR2019-18285

Dear Mr. O'Leary:

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# 773674.

The GEO Group, Inc. ("GEO"), which you represent, received a request for the personnel files for two named individuals. GEO claims it is not a government body, and thus, is not subject to the Act. Alternatively, GEO claims the submitted information is excepted from disclosure under sections 552.101, 552.102, and 552.147 of the Government Code. We have considered GEO's arguments and reviewed the submitted information.

GEO asserts it 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 defined "'supported in whole or in 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.

GEO states it is a "for profit, private corporation, publicly traded on the New York Stock Exchange, with its headquarters located in Boca Raton, Florida." GEO states it "provided services to [a Texas local government entity] based upon quid pro quo contracts." GEO asserts it does not depend on public funds from the Texas local government entity it contracts with "to continue as a going concern," nor is it "sustained by such public funds for purposes of the [Act]." Based upon these representations and our review of the submitted information, we find GEO is not sustained by public funds for purposes of the Act. *See id.* at 63. Therefore, we conclude GEO 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, GEO need not respond to the present request for information.¹

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, 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,



Lecelle Clarke
Attorney
Open Records Division

LC/be

Ref: ID# 773674

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.