



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 22, 2019

Mr. Pete Thompson
Counsel for Fort Worth Housing Solutions
Clark Hill Strasburger
901 Main Street, Suite 6000
Dallas, Texas 75202-3794

OR2019-33167

Dear Mr. Thompson:

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# 794795 (FWHS# FWHS0001).

Fort Worth Housing Solutions ("FWHS"), which you represent, received a request for the annual salary of two FWHS employees for the last five years. You claim the submitted information is not subject to the Act.¹ We have considered the submitted argument 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).

¹ We note we asked FWHS to provide additional information pursuant to section 552.303 of the Government Code. See Gov't Code § 552.303(c)-(d) (if attorney general determines that information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice). We have received and considered the information submitted by FWHS pursuant to that request.

² 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 that those records contain substantially different types of information than that submitted to this office.

“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. Upon review, we find FWHS has failed to demonstrate it does not fall within the definition of a “governmental body” under section 552.003 of the Government Code. Therefore, we find FWHS is a governmental body for purposes of the Act, and the submitted information is public information subject to release under the Act. As you raise no further arguments, FWHS must release the submitted information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/mo

Ref: ID# 794795

Enc. Submitted documents

c: Requestor
(w/o enclosures)