



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 24, 2020

Mr. Chris E. Howe
Counsel for CareFlite
Kelly Hart & Hallman, LLP
201 Main Street, Suite 2500
Fort Worth, Texas 76102

OR2020-09079

Dear Mr. Howe:

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# 818662.

CareFlite ("CareFlite"), which you represent, received a request for sixteen categories of information pertaining to a specified incident. You claim CareFlite is not a governmental body subject to the Act. We have considered your submitted argument.

You assert CareFlite is not a governmental body pursuant to section 552.003(1)(A)(xv) of the Government Code, and, therefore, is not subject to the Act. Section 552.003(1)(A)(xv) defines "governmental body," in pertinent part, as follows:

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)(xv). "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)(xv) 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 inform us CareFlite is a private non-profit section 501(c)(3) corporation that provides emergency medical services in the North Texas region. You state no part of CareFlite is or has been “supported in whole or in part by public funds” nor is CareFlite in any way financially dependent upon or sustained by state or local government. You represent CareFlite receives approximately 92% of its revenue from sources other than governmental entities, and would continue to operate as a viable ongoing concern without receiving revenue from contracts with governmental entities. Based upon your representations and our review, we find CareFlite is not sustained by public funds for purposes of the Act. *See id.* at 63. Consequently, CareFlite does not fall within the definition of a “governmental body” under section 552.003(1)(A)(xv) of the Government Code and is not subject to the Act. Accordingly, CareFlite need not respond to the request for 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,

Kimbell Kesling
Attorney
Open Records Division

KK/mo

Ref: ID# 818662

c: Requestor