



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 1, 2020

Mr. Tony Schaffer
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Schaffer Law Firm
14360 Falcon Head Boulevard, Suite 100
Austin, Texas 78738

OR2020-16748

Dear Mr. Schaffer:

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# 834022.

Southwestern Correctional, L.L.C. ("SWC"), which you represent, received a request for all records related to a named individual. SWC states it has released some of the requested information. SWC claims it is not a governmental body subject to the Act. In the alternative, SWC claims the requested information is excepted from disclosure under sections 552.101, 552.107, 552.117, 552.1175, and 552.147 of the Government Code. We have considered the submitted arguments.

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[.]

Id. § 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.

SWC informs us, and provided a statement demonstrating, it is a Texas limited liability company that is a for-profit, privately-owned entity. SWC explains it provides services to Bowie County, Texas; the Arkansas Department of Corrections; and the United States federal government, and receives payments for its services. However, SWC states the funds it receives are “not general and unrestricted payments to subsidize or underwrite” its activities. Further SWC states it is not dependent on the funds it receives from Bowie County to continue as a going concern. Thus, SWC states it is not sustained by public funds for purposes of the ruling in *Greater Houston P’ship*. Based on these representations, we find SWC 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, SWC need not respond to the present request for information under the Act. As we are able to make this determination, we need not consider SWC’s claimed exceptions to disclosure of the requested 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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/be

Ref: ID# 834022

c: Requestor