



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 28, 1995

Ms. Jacqueline Williams  
Director of Financial & Internal Control  
Brazoria County Head Start Program  
135 West Live Oak  
Angleton, Texas 77515

OR95-843

Dear Ms. Williams:

You have asked whether the Brazoria County Head Start Program (the "program") is required to disclose certain records under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 28577.

The program received a request for the personnel records of a former employee. You contend that the program is a nonprofit, federally-funded corporation that is not subject to chapter 552. Head Start programs can receive 80 percent or more of their support from the federal government. 42 U.S.C. § 9835; 45 C.F.R. § 1301.20 (federal financial assistance for Head Start program "shall not exceed eighty percent of the total costs of the program" except under certain circumstances). Contributions from non-federal sources may be made "in cash or in kind" including contributions of equipment and services. 42 U.S.C. § 9835(b). You indicate that the state pays a "reimbursement rate" for care of some children enrolled in the program and that the county donates office space to the program.<sup>1</sup>

Information held by a "governmental body" is generally available to the public as a public record. Gov't Code § 552.021. A "governmental body" includes:

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<sup>1</sup>Human Resources Code section 44.001 provides that the Department of Human Services is the state agency designated to administer day-care programs established by federal law and financed partially or totally by federal funds. State agencies are eligible for quality improvement funds from the federal government for activities such as ensuring that Head Start staff members are adequately trained and ensuring that the physical environments of these programs meet certain requirements. 42 U.S.C. § 9835(a)(3).

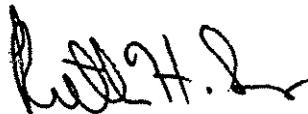
the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds.

*Id.* § 552.003(a)(10). “Public funds” are defined as funds of the state or of a governmental subdivision of the state. *Id.* § 552.003(c); *see also* Open Records Decision No. 563 (1990) (concluding that nonprofit corporation can be governmental body for purposes of Open Records Act). You have not advised this office as to what proportion of the program’s funding comes from public funds or whether public funds are used to pay for the employment of program staff. However, if public funds are used in whole or in part, as general support for the program, the records would be subject to chapter 552.

Information held by a “governmental body” is public unless it falls within a specific exception to public disclosure. Gov’t Code § 552.006. You have raised no exceptions to disclosure. We note additionally that you did not supply this office the request letter or the records at issue to review. We are therefore unable to determine that any exception from disclosure is applicable. *See* Open Records Decision No. 197 (1978) at 1-2 (governmental body’s refusal to submit copies of requested information results in presumption that information is public). Assuming that the program’s employment records are subject to chapter 552, in the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, the requested employment records must be disclosed. Open Records Decision No. 552 (1990) at 1.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Government Section

RHS/LRD/rho

Ref.: ID# 28577