



August 18, 1999

Mr. Hugo Cardona
President and CEO
SER-Jobs for Progress National, Inc.
100 Decker Drive, Suite 200
Irving, Texas 75062

OR99-2340

Dear Mr. Cardona:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126584.

SER-Jobs for Progress National, Inc. ("SER National") received requests for several items of information. You assert that SER National is not a "governmental body" and therefore is not subject to the disclosure requirements placed on such entities by chapter 552 of the Government Code. We have considered your argument.

The term "governmental bodies" includes "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)(x). Public funds are "funds of the state or a governmental subdivision of the state." Gov't Code § 552.003(5). However, private persons or businesses are not "governmental bodies" subject to the Public Information Act "simply because [the persons or businesses] provide specific goods or services under a contract with a government body." *Kneeland v. National Collegiate Athletic Ass'n*, 850 F.2d 224 (5th Cir. 1988), *cert. denied*, 488 U.S. 104. The *Kneeland* court noted that opinions of this office that addressed the application of "governmental bodies" to private entities have generally examined the facts of the relationship between the entity and governmental body and applied three distinct patterns of analysis:

The opinions advise that an entity receiving public funds becomes a governmental body under the Act, unless its relationship with the government imposes "a specific and definite obligation . . . to provide a

measurable amount of service in exchange for a certain amount of money as would be expected in a typical arms-length contract for services between a vendor and purchaser.” Tex. Att’y Gen. No. JM-821 (1987), *quoting* ORD-228 (1979). That same opinion informs that “a contract or relationship that involves public funds and that indicates a common purpose or objective or that creates an agency-type relationship between a private entity and a public entity will bring the private entity within the . . . definition of a ‘governmental body.’” Finally, that opinion, citing others, advises that some entities, such as volunteer fire departments, will be considered governmental bodies if they provide “services traditionally provided by governmental bodies.

Id.

In this case, you state that SER National receives no public funding for its general support, but has received public funding for performance of two contracts, both of which have now been completed. You assert that the contract period for the first contract was May 26, 1998 through August 31, 1998, and that the contract period for the second contract was May 26, 1998 through July 31, 1998. As permitted under Government Code section 552.304, the requestor has supplied this office with copies of two contracts, identified as contract number 9801-Payroll and contract number 9821-IIB. The service periods for these contracts are May 26, 1998 through August 31, 1998 and May 26, 1998 through January 31, 1999, respectively. The parties of these contracts are the Dallas County Local Workforce Development Board, Inc. (the “Board”) and SER-Jobs for Progress National, Inc. The funding source of both contracts is Job Training Partnership Act Title IIB.

This office has previously opined that the entity “SER-Jobs for Progress, Travis County, Inc.” (“SER”), which contracted to execute and implement a similarly funded program, was a governmental body subject to the Public Information Act, “to the extent that SER is implementing and managing the Comprehensive Job Training Employment Program.” Open Records Letter No. 98-2252 (1998). In that case, we found that SER and the governmental body with which it contracted had a common purpose and objective such that SER was providing services traditionally provided by the governmental body. *Id.*

Here, the requested information does not appear to be related to the now completed contractual obligations of SER National to the Board. As the “common-purpose and objective” of the contracting governmental body and SER National no longer exists, and the subject information does not appear to relate to those obligations, we conclude that SER National is not a “governmental body” for purposes of this request and therefore need not respond to it pursuant to the requirements of chapter 552 of the Government Code.

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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns". The signature is stylized and cursive.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 126584

cc: Mr. Leonard Chaires
Dallas SER-Jobs for Progress, Inc.
1012 Briarcreek Drive
Arlington, Texas 76012