



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 21, 2015

Mr. Stephen M. Robinson  
Counsel for the Greater Fort Bend Economic Development Council  
Allen Boone Humphries Robinson L.L.P.  
3200 Southwest Freeway, Suite 2600  
Houston, Texas 77027

OR2015-14855

Dear Mr. Robinson:

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# 570346.

The Fort Bend Economic Development Council (the "council"), which you represent, received a request for (1) copies of all fully executed contracts between the council and a named individual over a specified time period; (2) copies of all time sheets submitted by the named individual over the specified time period; (3) reports by the named individual; (4) copies of all invoices from a named entity to the council; (5) copies of invoices related to a reimbursements for a specified event; (6) contracts between the council and another named entity over a specified time period; and (7) contracts between the council and a third named entity over a specified time period. You first claim the council is not a governmental body, and thus, the requested information is not subject to the Act. In the alternative, you claim some of the information implicates the proprietary interests of third parties. You state, and provide documentation showing, you notified the third parties of the request for information and of their right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party

to submit to attorney general reasons why requested information should or should not be released). We have reviewed the submitted information and the submitted arguments.<sup>1</sup>

You assert the council is not a governmental body, and therefore it is not subject to the Act. 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*, No. 13-0745, 2015 WL 3978138, at \*9 (Tex. June 26, 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 \*7, and only those entities acting as the functional equivalent of the government, *see id.* at \*8.

The council informs us it is a nonprofit corporation that designs and implements programs that promote businesses in the Fort Bend County Area for the benefit of individual members and for the area as a whole. The council states approximately 84% percent of the council’s members are private. The council also represents it does not depend on public dollars to operate and that even without the contracts with governmental body, the council would continue its stated mission and have a budget from other sources of revenue, including membership fees and private sector fundraising, which is sufficient for the council to maintain its operations.

Upon review of your representations, we find the council is not sustained by public funds. *See id.* Therefore, we conclude the council is not supported in whole or part by public funds. Consequently, the council 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, the council need not respond to the request for information.

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<sup>1</sup>We note we asked the council 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 correspondence sent by the council pursuant to that request.

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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/som

Ref: ID# 570346

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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