



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 13, 2016

Mr. James Beauchamp
President
MOTRAN Alliance, Inc.
P.O. Box 60816
Midland, Texas 79711

OR2016-08234

Dear Mr. Beauchamp:

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# 605865.

MOTRAN Alliance, Inc. ("MOTRAN"), received two requests for e-mails.¹ You claim MOTRAN is not a governmental body, and thus, the requested information is not subject to the Act. We have considered your argument.

You assert MOTRAN 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[.]

Gov't Code § 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*

¹As MOTRAN did not submit a copy of one of the requests for information, we take this description from your brief.

id. at *61, and only those entities acting as the functional equivalent of the government, *see id.* at *62.

You state MOTRAN is a non-profit section 501(c)(6) corporation. You explain MOTRAN “does have contracts for economic development services with both the Midland and Odessa Development Corporations[,]” but this funding is “for specific purposes related to the contracts[.]” You also explain MOTRAN existed for over six years “prior to the economic development contracts with the Midland and Odessa Development Corporation[,]” and these contracts are “not required for the operation of the entity.” Based on your representations, we find MOTRAN is not sustained by public funds. *See id.* at 63. Therefore, MOTRAN 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 MOTRAN need not respond to the present requests 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 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MT/dls

Ref: ID# 605865

c: Requestor(s)