



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 16, 2016

Mr David F. Staas
Counsel for the Greater Houston Convention and Visitors Bureau
Winstead PC
600 Travis Street
Houston, Texas 77002

OR2016-13691

Dear Mr. Staas:

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# 617677.

The Greater Houston Convention and Visitors Bureau (the "bureau"), which you represent, received a request for eleven categories of information regarding investments the bureau has made in conventions and/or trade shows.¹ You assert the bureau is not a governmental body that is subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101, 552.104, and 552.110 of the Government Code. Further, you state release of this information may implicate the proprietary interests of HospitalityLawyer.com; Messe Düsseldorf North America; National Trade Productions, Inc.; Startling Events, LLC; and VP International, LLC. Accordingly, 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 submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested

¹We note the bureau sought and received clarification of this request from the requestor. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the submitted arguments and reviewed the submitted information.

You assert the bureau is not a governmental body pursuant to section 552.003(1)(A)(xii) of the Government Code, and therefore, is not subject to the Act. Section 552.003(1)(A)(xii) defines “governmental body” 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 id.* at 61, and only those entities acting as the functional equivalent of the government, *see id.* at 62.

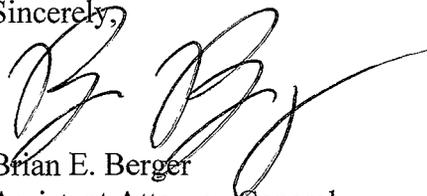
You state the bureau is a non-profit corporation that works to improve the economy of Greater Houston by attracting conventions, tourists, and film projects to the area through sales and marketing efforts. You state that, since June 20, 2014, the bureau has been funded solely by its private members’ dues and by the private conventions the bureau owns and operates, and these funds together account for the majority of the bureau’s operating revenue. You state the bureau does have in its reserves revenue from the hotel occupancy tax, which the bureau received prior to June 20, 2014. However, you inform us the bureau does not rely on these reserve funds or any other public funding to operate. Based on your representations, we find the bureau is not sustained by public funds. *See Greater Houston P’ship*. 468 S.W.3d at 63. Consequently, the bureau 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 bureau need not respond to the request for information.²

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.

²As we are able to make this determination, we do not address the other arguments.

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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 617677

Enc. Submitted documents

c: Requestor
(w/o enclosures)

5 Third Parties
(w/o enclosures)