



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2009

Mr. W. Montgomery Meitler
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2009-02377

Dear Mr. Meitler:

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# 335659.

The Texas Education Agency (the "agency") received a request for three categories of information related to agency investments. You state that information responsive to categories one and two, and part of category three will be released to the requestor.¹ You further state that you have redacted insurance policy numbers under section 552.136 of the Government Code pursuant to the previous determination issued to the agency in Open Records Letter No. 2007-05113 (2007). *See Gov't Code* § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You claim that the remaining requested information is excepted from disclosure under sections 552.136 and 552.143 of the Government Code. Because you also believe that the information at issue may contain proprietary information, you state, and provide documentation showing, that you have notified the interested third parties of the request and of their opportunity to submit comments to this office as to why

¹You state that the information that will be released to the requestor includes "all of the responsive information expressly listed in section 552.0225(b) of the Government Code."

the information at issue should not be released to the requestor.² See Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in certain circumstances). Blackstone, Goldman Sachs, and Grosvenor have submitted comments to our office. We have considered the arguments and reviewed the submitted information.

Section 552.143 of the Government Code provides in part the following:

(a) All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Section 552.0225(b) is confidential and excepted from the requirements of Section 552.021.

(b) Unless the information has been publicly released, pre- and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund is confidential and excepted from the requirements of Section 552.021, except to the extent it is subject to disclosure under Subsection (c).

(c) All information regarding a governmental body's direct purchase, holding, or disposal of restricted securities that is not listed in Section 552.0225(b)(2)-(9), (11), (13)-(16) is confidential and excepted from the requirements of Section 552.021. This Subsection does not apply to a governmental body's purchase, holding, or disposal of, restricted securities for the purpose of reinvestment nor does it apply to a private investment fund's investment in restricted securities. This Subsection applies to information regarding a direct purchase, holding, or disposal of restricted securities by the Texas growth fund, created under Section 70, Article XVI, Texas Constitution, that is not listed in Section 552.0225(b).

Gov't Code § 552.143 (a)-(c). You explain that the submitted information includes information held by the agency that was prepared and provided by private investment funds. You also inform us that the submitted information contains pre-investment and post-investment due diligence information about agency investments that was prepared by the agency and the private investment funds. You state that none of this information is subject to section 552.0225 of the Government Code or has been released to the public. Based on your representations and our review of the information at issue, we agree that the agency

²The third parties that received notice pursuant to section 552.305 are the following: Blackstone Alternative Asset Management L.P. ("Blackstone"); Goldman Sachs Hedge Fund Strategies L.L.C. ("Goldman Sachs"); Grosvenor Capital Management L.P. ("Grosvenor"); K2/D&S Management Co., L.L.C.; and Mesirov Advanced Strategies, Inc.

must withhold the information at issue under section 552.143 of the Government Code. As our ruling is dispositive, we do not address the remaining claims.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jb

Ref: ID# 335659

Enc: Submitted documents

c: Requestor
(w/o enclosures)

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