



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 15, 2009

Ms. Sylvia N. Salazar
Assistant General Counsel
Employees Retirement System of Texas
P.O. Box 13207
Austin, Texas 78711-3207

OR2009-13023

Dear Ms. Salazar:

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# 355248.

The Employees Retirement System of Texas (the "system") received a request for records showing the estimated current value of the system's holdings in certain investments. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.104, 552.110, and 552.143 of the Government Code. You also state, and provide documentation showing, that you have notified several interested third parties of this request and of their opportunity to submit comments to this office as to why the submitted information should not be released.¹ See Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory

¹The interested third parties consist of the following: Advent International Corporation; Brazos Private Equity Partners, LLC ("Brazos"); The Carlyle Group; Charterhouse General Partners (IX) Limited ("Charterhouse"); CVC Capital Partners; Hellman & Friedman Capital Partners VII, L.P.; Navis Asia Fund VI, LP; New Mountain Partners III, L.P.; RCAF V Associates, LLC; Southwest Opportunity Partners, LLP ("SWOP"); TA Associates; Texas Growth Fund Management Corporation ("TGF"); Wind Point Investors VII, L.P.

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). Brazos, Charterhouse, SWOP, TA Associates, and TGF have submitted comments to our office. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

You assert the submitted information is excepted under section 552.143(a) of the Government Code. Section 552.143(a) provides that "[a]ll 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." *Id.* § 552.143(a). You inform us that the submitted spreadsheet was compiled by the system using information provided by private investment funds. You also state that the submitted information is not subject to section 552.0225 of the Government Code. *See id.* § 552.0225(b) (listing categories of information held by governmental body relating to its investments that are public and not excepted from disclosure under the Act). Based on these representations and our review of the submitted information, we agree that the system must withhold the submitted information under section 552.143(a) of the Government Code. As our ruling on this issue is dispositive, we do not address any remaining arguments against disclosure.

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, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 355248

Enc. Submitted documents

cc: requestor
(w/o enclosures)

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