



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 11, 2011

Ms. Rebecca Merrill
Assistant General Counsel
Teacher Retirement System of Texas
1000 Red River Street
Austin, Texas 78701-2698

OR2011-00552

Dear Ms. Merrill:

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# 405583.

The Teacher Retirement System of Texas ("TRS") received a request for a list of all real estate funds that received TRS funds, the placement agents used by those real estate funds, and any fees paid to those agents for a specified time period. You state you have released some information to the requestor. You claim some of the submitted information is excepted from disclosure under section 552.143 of the Government Code. You also state, and provide documentation showing, you notified two interested third parties, Brockton Capital, LLC and USAA Real Estate Company, of TRS's receipt of the request for information and of the right of each to submit arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 considered your arguments and reviewed the information you submitted.

Initially, you state some of the submitted information is not responsive to the present request. This ruling does not address the public availability of non-responsive information, and TRS is not required to release non-responsive information in response to this request.

Next, you state that most of the requested information was the subject of previous requests, as a result of which this office issued Open Records Letter Nos. 2010-13709 (2010) and 2010-10478 (2010). In the previous rulings, we concluded that TRS must withhold most of the information at issue under section 552.143 of the Government Code, but must release information not protected by section 552.143, including certain information encompassed by section 552.0225(b) of the Government Code. You state that there has been no change in the law, facts, and circumstances on which the previous rulings are based. We therefore conclude that TRS must dispose of the requested information encompassed by Open Records Letter Nos. 2010-13709 and 2010-10478 in accordance with the previous rulings. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

You acknowledge that some of the submitted information is subject to section 552.0225 of the Government Code. Section 552.0225(b) provides as follows:

(b) The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under [the Act]:

(1) the name of any fund or investment entity the governmental body is or has invested in;

Gov't Code § 552.0225(b)(1). You have highlighted a representative sample of the fund names that TRS deems to be subject to section 552.0225(b). You inform us that this information is subject to section 552.0225(b)(1). *See id.* We note that the exceptions to disclosure found in the Act do not apply to information that section 552.0225(b) makes public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). We therefore agree that TRS must release the highlighted information pursuant to section 552.0225(b) of the Government Code.

You contend that the information you have marked is excepted from disclosure under section 552.143 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 [required public disclosure].” Gov't Code § 552.143(a). You state that TRS administers a pension trust fund under provisions of the constitution and statutes of the State of Texas. You explain that TRS's board of trustees adopted an Investment Policy Statement (the “statement”) to provide a formal plan for investing pension fund assets, in order to achieve defined investment objectives consistent with TRS's mission statement and applicable law. You inform us that effective July 1, 2009, the board adopted an addendum to the statement (the “addendum”) subtitled “Political Contributions; Improper Influence; Placement Agents and Finders.” You explain that the purpose of the addendum is to ensure the integrity of all TRS investment transactions and conformity with the highest fiduciary, ethical and legal standards by all parties involved. You state that the addendum requires potential investment managers, as early as reasonably possible in the due diligence process, to provide detailed,

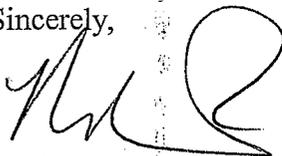
written responses to a questionnaire attached to the addendum (the "questionnaire"). You contend that section 552.143(a) is applicable to the remaining information you have marked in the submitted questionnaires. You state that the remaining marked information in the questionnaires was provided by private investment funds and is maintained by TRS. Based on your representations, we conclude that TRS must withhold the remaining information you have marked in the submitted questionnaires under section 552.143(a) of the Government Code.¹

In summary: (1) TRS must dispose of the requested information encompassed by Open Records Letter Nos. 2010-13709 and 2010-10478 in accordance with the previous rulings; (2) the highlighted information in the submitted questionnaires must be released pursuant to section 552.0225(b) of the Government Code; and (3) TRS must withhold the rest of the information you have marked under section 552.143(a) of the Government Code.

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 405583

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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