



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 9, 2012

Mr. Dan Junell
Assistant General Counsel
Teacher Retirement System of Texas
1000 Red River Street
Austin, Texas 78701-2698

OR2012-02068

Dear Mr. Junell:

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# 445837.

The Teacher Retirement System of Texas (the "system") received a request for all due diligence that led to the system's decision to negotiate for contracts with two named companies, including e-mail correspondence between the system and the companies regarding the contracts.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, 552.107, 552.111, and 552.143 of the Government Code. You state the submitted information also implicates the proprietary interests of certain third parties. Accordingly, you notified Apollo Global Management, L.L.C. ("Apollo"); Hamilton Lane; Hewitt EnnisKnupp; Kohlberg Kravis Roberts & Co., L.P. ("KKR"); and The Townsend Group ("Townsend") of the request and of their right to submit arguments to this office explaining why their information should not be released. *See Gov't Code* § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990)

¹We note the system sought and received clarification of the request. *See Gov't Code* § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). *See also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

(determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received arguments from Apollo, KKR, and Townsend. We have considered the arguments and reviewed the submitted information, a portion of which consists of a representative sample.² We have also considered comments submitted by a representative of the requestor. *See* Gov't Code § 552.304 (interested party may submit comments to this office stating why the information at issue should or should not be released).

Initially, we note you have marked some of the submitted information as non-responsive. Our ruling does not address the public availability of information that is not responsive to the request, and the system is not required to release information that is not responsive.

Next, we turn to your assertion of section 552.143 of the Government Code, as it is potentially the most encompassing exception raised. Section 552.143 provides, in part:

(b) Unless the information has been publicly released, pre-investment 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).

Gov't Code § 552.143 (b). You state the submitted information consists of due diligence information prepared by the system or a private investment fund in order to evaluate possible investments in those funds. You state the system has not publicly released any of the information at issue. You explain sections 552.143(c) and 552.0225 of the Government Code are not applicable because the system has not yet made an investment in any of the funds at issue. Based on these representations and our review, we conclude the system must withhold the submitted information under section 552.143(b) of the Government Code. As our ruling is dispositive, we do not address any of the remaining arguments.

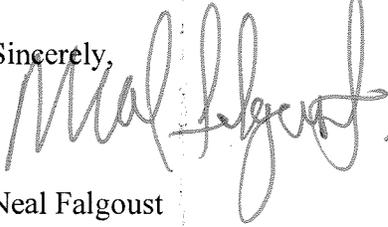
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/agn

Ref: ID# 445837

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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