



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 22, 2012

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

OR2012-04271

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# 419223.

The Teacher Retirement System of Texas (the "system") received a request for (1) the amount invested in ten named companies; (2) the amount in investments in cooperation with specified companies; (3) the amount of contracts for services or amount of investments with a named company; and (4) correspondence between system investment managers, board members, or senior staff and a named individual from a specified period of time.¹ You state you have no information responsive to portions of the request.² You state you have released

¹You state, and provide documentation showing, the system sought and received clarification from the requestor regarding the request. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that 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).

²We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.104, 552.110, and 552.143 of the Government Code. You also inform us release of this information may implicate the proprietary interests of Capital Royalty and Credit Suisse. Accordingly, you notified these companies 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 third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Capital Royalty. We have considered the submitted arguments and reviewed the submitted information.

You assert the submitted information is excepted from disclosure under section 552.143 of the Government Code. Section 552.143 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-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 (a), (b). You state some of the submitted information consists information held by the system that was prepared and provided by CSFB Emerging Opportunities Fund, L.P., a private investment fund. You inform us that the information you seek to withhold is not subject to section 552.0225(b). *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 your representations and our review, we agree the system must withhold the information at issue under section 552.143(a). You also state the remaining information consists of pre-investment due diligence information about the system's proposed investment opportunities. You inform us the system did not invest in these funds. You also inform us that the information at issue has not been released to the public. Based on your representations and our review of the information at issue, we agree that the system must withhold the remaining information under section 552.143(b) of the Government Code. As our ruling is dispositive, we need not address the 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/som

Ref: ID# 449223

Enc. Submitted documents

- c: Requestor
(w/o enclosures)
- c: Mr. Peter Braffman
Credit Suisse
Eleven Madison Avenue
New York, New York 10010-3629
(w/o enclosures)
- c: Mr. Charles Tate
Capital Royalty
1000 Main Street, Suite 2500
Houston, Texas 77002
(w/o enclosures)