



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 26, 2014

Mr. Chris Sterner  
Assistant General Counsel  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

OR2014-15090

Dear Mr. Sterner:

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# 535818 (OOG ID# 195-14).

The Office of the Governor (the "governor's office") received a request for information related to Endothelix, Inc.<sup>1</sup> You state you are releasing some responsive information to the requestor. You claim the remaining responsive information is excepted from disclosure under sections 552.101 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes.

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<sup>1</sup>You claim, and we agree, the request asks the governor's office to answer questions. A governmental body is not required to answer factual questions, conduct legal research, or create new information in responding to a request for information under the Act. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). A governmental body must make a good-faith effort, however, to relate a request to responsive information that is within its possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). You state the governor's office has done so.

<sup>2</sup>We 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 that submitted to this office.

Section 490.057 of the Government Code addresses the confidentiality of certain information pertaining to the Emerging Technology Fund (“ETF”). *See id.* § 490.057. *See generally id.* §§ 490.101, 490.102, 490.103. Section 490.057 provides the following:

(a) Except as provided by Subsection (b), information collected by the governor’s office, the [Texas Emerging Technology Advisory Committee (the “committee”)], or the committee’s advisory panels concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity being considered for, receiving, or having received an award from the fund is confidential unless the individual or entity consents to disclosure of the information.

(b) The following information collected by the governor’s office, the committee, or the committee’s advisory panels under this chapter is public information and may be disclosed under [the Act]:

(1) the name and address of an individual or entity receiving or having received an award from the fund;

(2) the amount of funding received by an award recipient;

(3) a brief description of the project that is funded under this chapter;

(4) if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that has received an award from the fund; and

(5) any other information designated by the committee with the consent of:

(A) the individual or entity receiving or having received an award from the fund, as applicable;

(B) the governor;

(C) the lieutenant governor; and

(D) the speaker of the house of representatives.

*Id.* § 490.057. You state the information at issue was collected by the governor’s office, and concerns the identity, background, finance, or marketing plans of an entity that has received an ETF award. You explain the governor’s office has no indication the instant request was made on behalf of the entity concerned and the entity concerned has not provided the governor’s office with consent to disclose the information. Further, you state the submitted

information is not subject to section 490.057(b).<sup>3</sup> Based on your representations, we conclude the information at issue is confidential under section 490.057(a) of the Government Code and the governor's office must withhold it under section 552.101 of the Government Code on that ground.<sup>4</sup>

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 535818

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>You inform us the governor's office is releasing the requested information subject to section 490.057(b).

<sup>4</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.