



February 3, 2015

Mr. W. Montgomery Meitler
Senior Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

OR2015-02145

Dear Mr. Meitler:

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# 552809 (TEA PIR# 23308).

The Texas Education Agency (the "agency") received a request for ten categories of information pertaining to the agency's alternative asset holdings performance during a specified period of time. The agency states it will release some of the requested information. The agency states it does not have information responsive to one of the categories of the request.¹ The agency claims the submitted information is excepted from disclosure under section 552.143 of the Government Code. We have considered the exception the agency claims and reviewed the submitted information.

Section 552.143 of the Government Code provides in relevant part:

(c) All information regarding a governmental body's direct purchase, holding, or disposal of restricted securities that is not listed in Section 552.0225(b)(2)-

¹The Act does not require a governmental body to release information that did not exist when a request for information 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).

(9), (11), or (13)-(16) is confidential and excepted from the requirements of Section 552.021. This subsection does not apply to a governmental body's purchase, holding, or disposal of restricted securities for the purpose of reinvestment nor does it apply to a private investment fund's investment in restricted securities. This subsection applies to information regarding a direct purchase, holding, or disposal of restricted securities by the Texas growth fund, created under Section 70, Article XVI, Texas Constitution, that is not listed in Section 552.0225(b).

Gov't Code § 552.143(c). The agency asserts the submitted information pertains to its direct purchase, holding, or disposal of restricted securities. *See id.* § 552.143(d)(3) (defining "restricted securities" for purposes of section 552.143); *see also* 17 C.F.R. § 230.144(a)(3) (defining "restricted securities" as "securities acquired directly or indirectly from the issuer, or from an affiliate of the issuer, in a transaction or chain of transactions not involving public offering"). The agency further informs us no portion of the information at issue is subject to section 552.0225(b)(2)-(9), (11), or (13)-(16) of the Government Code. *See* Gov't Code § 552.0225(b)(2)-(9), (11), or (13)-(16) (listing categories of information held by a governmental body relating to its investments that are public and not excepted from disclosure under the Act). Based on the agency's arguments and our review, we find the agency has demonstrated the applicability of section 552.143(c) to the submitted information. Accordingly, the agency must withhold the submitted information under section 552.143(c) 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.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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 552809

Enc. Submitted documents

c: Requestor
(w/o enclosures)