



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 20, 2015

Ms. Jordan Hale
Public Information Coordinator
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2015-14736

Dear Ms. Hale:

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# 572129 (OOG ID# 15-174).

The Office of the Governor (the "governor's office") received a request for the most recent report submitted to the Emerging Technology Fund ("ETF") by SecureOrigin, Inc. ("SecureOrigin"). You state you will release some of the information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of the requested information may implicate the interests of SecureOrigin. Accordingly, you state you notified SecureOrigin of the request for information and of its right to submit arguments stating why its 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); Open Records Decision No. 542 (1990) (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 considered the exception you claim and reviewed the submitted information.

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. Section 490.057 of the Government Code addresses the confidentiality of certain information

pertaining to the ETF. *See id.* § 490.057; *see generally id.* §§ 490.101-.103. Section 490.057 provides:

(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 submitted information was collected by the governor's office. You further state the information concerns the identity, background, finance, and marketing plans of an entity that is being considered for an ETF award and, therefore, is confidential under subsection 490.057(a) and must be withheld from release pursuant to section 552.101

of the Government Code. You explain the entity has not consented to release of its information. Further, you state the submitted information is not subject to section 490.057(b). Based upon your representations and our review, we conclude the submitted information concerns the identity, background, finance, and marketing plans of an entity that is being considered for an ETF award. Therefore, the governor's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 490.057(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.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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/som

Ref: ID# 572129

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Hector Holguin
SecureOrigins, Inc.
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El Paso, Texas 79922
(w/o enclosures)