



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 7, 2017

Ms. Cecilia Gonzalez
Public Information Coordinator
The University of Texas Investment Management Company
401 Congress Avenue, Suite 2800
Austin, Texas 78701

OR2017-12498

Dear Ms. Gonzalez:

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# 662468.

The University of Texas Investment Management Company ("UTIMCO") received a request for specified investment letters, due diligence reports, and pension consultant reports pertaining to Bridgewater Associates, L.P. ("Bridgewater"). UTIMCO states it does not have some of the requested information.¹ UTIMCO claims the submitted information is excepted from disclosure under sections 552.110 and 552.143 of the Government Code.² UTIMCO also states, and provides documentation showing, it notified Bridgewater of UTIMCO's receipt of the request for information and of Bridgewater's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 correspondence from Bridgewater objecting to the release of the information at issue. We

¹The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *See generally Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed).

²Although UTIMCO also raises section 552.101 of the Government Code, it has not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume UTIMCO no longer asserts this exception. *See* Gov't Code §§ 552.301, .302.

have considered the submitted arguments and reviewed the submitted representative sample of information.³

Initially, we note some of the submitted information is subject to section 552.0225(b), which reads as follows:

The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under [the Act]:

- (1) the name of any fund or investment entity the governmental body is or has invested in;
- (2) the date that a fund or investment entity described by Subdivision (1) was established;
- (3) each date the governmental body invested in a fund or investment entity described by Subdivision (1);
- (4) the amount of money, expressed in dollars, the governmental body has committed to a fund or investment entity;
- (5) the amount of money, expressed in dollars, the governmental body is investing or has invested in any fund or investment entity;
- (6) the total amount of money, expressed in dollars, the governmental body received from any fund or investment entity in connection with an investment;
- (7) the internal rate of return or other standard used by a governmental body in connection with each fund or investment entity it is or has invested in and the date on which the return or other standard was calculated;
- (8) the remaining value of any fund or investment entity the governmental body is or has invested in;
- (9) the total amount of fees, including expenses, charges, and other compensation, assessed against the governmental body by, or paid by the governmental body to, any fund or investment entity or principal

³We 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.

of any fund or investment entity in which the governmental body is or has invested;

(10) the names of the principals responsible for managing any fund or investment entity in which the governmental body is or has invested;

(11) each recusal filed by a member of the governing board in connection with a deliberation or action of the governmental body relating to an investment;

(12) a description of all of the types of businesses a governmental body is or has invested in through a fund or investment entity;

(13) the minutes and audio or video recordings of each open portion of a meeting of the governmental body at which an item described by this subsection was discussed;

(14) the governmental body's percentage ownership interest in a fund or investment entity the governmental body is or has invested in;

(15) any annual ethics disclosure report submitted to the governmental body by a fund or investment entity the governmental body is or has invested in; and

(16) the cash-on-cash return realized by the governmental body for a fund or investment entity the governmental body is or has invested in.

Gov't Code § 552.0225(b). The exceptions to disclosure found in the Act, such as sections 552.143(a), 552.143(b), and 552.110, do not apply to information made public by section 552.0225. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, UTIMCO must release the types of information enumerated in section 552.0225(b) of the Government Code.

Section 552.143 of the Government Code provides in relevant 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).

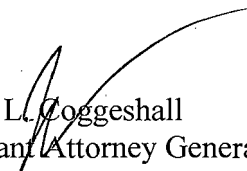
Gov't Code § 552.143(a)-(b). UTIMCO asserts the remaining information was prepared by and received from Bridgewater, which is a private investment fund. *See id.* § 552.143(a). Based these representations and our review, we agree UTIMCO must withhold the remaining information under 552.143(a) of the Government Code.⁴

To conclude, UTIMCO must release the types of information enumerated in section 552.0225(b) of the Government Code. UTIMCO must withhold the remaining information under 552.143(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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 662468

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴As our ruling is dispositive, we do not address the remaining arguments to withhold this information.