



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 9, 2019

Ms. Alice McAfee  
Assistant General Counsel  
Teacher Retirement System of Texas  
1000 Red River Street  
Austin, Texas 78701-2698

OR2019-21976

Dear Ms. McAfee:

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# 779761 (Ref. No. 19-2).

The Teacher Retirement System of Texas (the "system") received a request for the pitchbooks from presentations conducted by GEPIF III Side Car T, L.P. ("GEPIF") and First Reserve Fund XIV, L.P. ("First Reserve"). You state the system does not have information responsive to the request for GEPIF's pitchbook.<sup>1</sup> You state the system will release some information to the requestor pursuant to section 552.0225(b) of the Government Code. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.143 of the Government Code. Additionally, you state release of the information at issue may implicate the proprietary interests of First Reserve. Accordingly, you state, and provide documentation demonstrating, you notified First Reserve of the request for information and of its right to submit arguments to this office as to why the information at issue 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 First Reserve. We have also received comments submitted by BlackRock, Inc. ("BlackRock"), which manages GEPIF. *See* Gov't Code § 552.305(b) (interested party may submit reasons

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

why information pertaining to that party should be withheld). We have considered the submitted arguments and reviewed the submitted information.

Initially, BlackRock argues against the release of the requested GEPIF pitchbook. As noted above, the system states it does not maintain information responsive to this portion of the request. Thus, BlackRock argues against the release of information that was not submitted to this office. This ruling does not address information that was not submitted by the system and is limited to the information the system has submitted for our review. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested).

Section 552.143 of the Government Code provides, in part:

(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).

(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)-(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).

*Id.* § 552.143(a)-(c). You state the information at issue consists of pre-investment due diligence information prepared for and maintained by the system. You inform us this information has not been publicly released and is not subject to disclosure pursuant to section 552.143(c). Based on these representations and our review, we find you have demonstrated the applicability of section 552.143(b) to the information at issue. Accordingly, the system must withhold the submitted information under section 552.143(b) of the Government Code.<sup>2</sup>

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/mo

Ref: ID# 779761

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: 2 Third Parties  
(w/o enclosures)