



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 6, 2019

Mr. W. Montgomery Meitler
Senior Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2019-31285

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# 795656 (PIR# 39461).

The Texas Education Agency (the "TEA") received a request for information related to investments by the Texas Permanent School Fund. The TEA states it has released some information. The TEA states it does not maintain information responsive to a portion of the request.¹ The TEA claims the submitted information is excepted from disclosure under section 552.143 of the Government Code. Additionally, the TEA states release of the submitted information may implicate the proprietary interests of GCM Grosvenor and Neuberger Berman. Accordingly, the TEA states, and provides documentation showing, it notified these third parties of the request for information and of the right to submit arguments to this office as to why the submitted information 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 considered the exception the TEA claims and reviewed the submitted information.

Section 552.143 of the Government Code provides, in part, the following:

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. 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), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

(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). The TEA states the submitted information was prepared and provided to the TEA by a private investment fund and includes pre- and post-investment diligence information. The TEA states the information concerns the indirect holdings of the Texas Permanent School Fund, which occurred through fund of investments. The TEA informs us this information is not subject to disclosure pursuant to section 552.0225 of the Government Code. *See id.* § 552.0225. Based on these representations and our review, we find the TEA has demonstrated the applicability of section 552.143(a) to the information at issue. Thus, the TEA must withhold the submitted information under section 552.143 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 <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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/mo

Ref: ID# 795656

Enc. Submitted documents

c: Requestor
(w/o enclosures)