



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 27, 2020

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

OR2020-09528

Dear Ms. Godbey:

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# 819379 (TRS Reference# 20-1).

The Teacher Retirement System of Texas (the "system") received a request for five categories of information related to specified investments or correspondence.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.107, and 552.143 of the Government Code.² Additionally, you state release of this information may implicate the proprietary interests of an interested third party. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their 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

¹ You inform us the requestor was required to make a deposit for payment of anticipated costs for the request under section 552.263 of the Government Code, which the system received on January 9, 2020. *See* Gov't Code § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date that governmental body receives deposit or bond).

² We note the requestor asserts the system did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because third party interests and sections 552.101, 552.107, and 552.143 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider the submitted arguments. *See id.* §§ 552.007, .302, .352.

Act in certain circumstances). We have received comments from Academy, Ltd. d/b/a Academy Sports and Outdoors (“Academy”). We have also received and considered comments from the requestor. *See* Gov’t Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments and reviewed the submitted representative sample of information.³

Initially, we note you have marked a portion of the submitted information as not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the system need not release non-responsive information to the requestor.

Section 552.143 of the Government Code provides, in 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).

Id. § 552.143(a)-(b). The system states the submitted information consists of post-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 the system has demonstrated the applicability of section 552.143(b) to the information at issue. Thus, the system must withhold the submitted information under section 552.143(b) of the Government Code.⁴

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

³ We 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.

⁴ As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/jxd

Ref: ID# 819379

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)