



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 11, 2022

Mr. David Garcia
Benefits Supervisor
City of El Paso Employees Retirement Trust
1039 Chelsea Street
El Paso, Texas 79903

OR2022-07441

Dear Mr. Garcia:

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# 935535.

The City of El Paso Employees Retirement Trust (the "trust") received two requests from different requestors for certain information pertaining to a specified investment committee meeting. Additionally, the second requestor seeks certain information, including meeting minutes, pertaining to a specified meeting of the trust's Board of Trustees (the "board"). Although you take no position regarding whether the submitted information is excepted from disclosure, you state release of the information at issue may implicate the proprietary interests of Abbott Capital Management, LLC ("Abbott") and Pantheon Ventures (US), LP ("Pantheon"). Accordingly, you state, and provide documentation demonstrating, the trust notified these interested third parties of the request for information and of their 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).* You have submitted comments from Abbott and Pantheon. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the second request is broader than the first request because, in addition to certain information pertaining to a specified investment committee meeting, the second requestor also seeks certain information pertaining to a specified board meeting, including meeting minutes. Thus, the trust need not release information to the first requestor that is not responsive to his request.

Next, we note the trust has not submitted information responsive to the portion of the second request seeking board meeting minutes. To the extent any additional information responsive to the second request existed on the date the trust received it, we assume the trust has already released such information to the second requestor. If the trust has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.143 of the Government Code provides, in relevant 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 [required public disclosure].

(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 [required public disclosure], except to the extent it is subject to disclosure under Subsection (c).

Gov't Code § 552.143(a)-(b). Upon review, we find the submitted information is confidential under section 552.143. Accordingly, the trust must withhold the submitted information under section 552.143 of the Government Code.¹

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/be

¹ As our ruling is dispositive, we need not address the arguments of Abbott or Pantheon against disclosure of this information.

Mr. David Garcia - Page 3

Ref: ID# 935535

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

c: 2 Third Parties
(w/o enclosures)