



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 24, 2022

Mr. Lane Arnold  
Officer for Public Information or Designee  
The University of Texas/Texas A&M Investment Management Company  
210 West 7th Street, Suite 1700  
Austin, Texas 78701

OR2022-18259

Dear Mr. Arnold:

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# 953759.

The University of Texas/Texas A&M Investment Management Company ("UTIMCO") received a request for six categories of information pertaining to a named company and its affiliates during a defined period of time.<sup>1</sup> You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.104, 552.107, and 552.143 of the Government Code. In addition, you state release of the submitted information may implicate the proprietary interests of Canyon Partners, L.L.C. ("Canyon"). Accordingly, you state, and provide documentation showing, you notified Canyon 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 received comments from Canyon. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup> You state UTIMCO sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.2d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

<sup>2</sup> 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 that those records contain substantially different types of information than that submitted to this office.

Section 552.143 of the Government Code provides, in relevant part, as follows:

(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). UTIMCO and Canyon state the submitted information consists of pre-investment and post-investment due diligence information prepared or maintained by UTIMCO, including information prepared and provided by Canyon, a private investment fund. UTIMCO informs us the information at issue does not consist of information that is subject to section 552.0225(b) of the Government Code nor is the information at issue subject to disclosure pursuant to section 552.143(c) of the Government Code. Further, UTIMCO informs us the information at issue has not been released to the public. Based upon these representations and our review, we find UTIMCO must withhold the submitted information under section 552.143 of the Government Code.<sup>3</sup>

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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

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<sup>3</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)