



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 27, 2009

Mr. James G. Nolan  
Assistant General Counsel  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

OR2009-05507

Dear Mr. Nolan:

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# 341472 (Comptroller ID# 5594910868).

The Texas Comptroller of Public Accounts (the "comptroller") received a request for (1) the last report to the governor on the Texas CAPCO (Certified Capital Companies) program, and (2) all annual reports from Texas CAPCO's for calendar year 2008. You state that the comptroller has released information responsive to item (1). Although the comptroller takes no position on the release of the submitted information, you explain that it may contain proprietary information subject to exception under the Act. Accordingly, you have notified nineteen third parties of this request for information and of their right to submit arguments to this office as to why the requested information should not be released.<sup>1</sup> See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. See Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received any

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<sup>1</sup>The nineteen third parties you notified are: Accent Texas Fund I, L.P.; Accent Texas Fund II, L.P.; Aegis Texas Venture Fund, L.P.; Aegis Texas Venture Fund II, L.P.; Enhanced Capital Texas Fund, L.P.; Enhanced Capital Texas Fund II, L.P.; Lonestar CAPCO Fund, L.L.C.; Republic Holdings Texas, L.P.; Republic Holdings Texas II, L.P.; Stonehenge Capital Fund Texas, L.P.; Stonehenge Capital Fund Texas II, L.P.; Texas ACP I, L.P.; Texas ACP II, L.P.; Waveland NCP Texas Ventures, L.P.; Waveland NCP Texas Ventures II, L.P.; Whitecap Texas Opportunity Fund, L.P.; Whitecap Texas Opportunity Fund II, L.P.; Wilshire Texas Partners I, L.L.C.; and ATVF II, L.L.C. (a/k/a Texas Ventures).

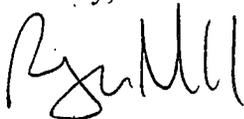
conclude that any of these parties has any protected proprietary interests in the submitted information. Thus, the comptroller may not withhold any of the submitted information on that basis. *See id.* § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 639 at 4 (1996), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990).

We note that the submitted information contains e-mail addresses belonging to members of the public. Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See Gov’t Code* § 552.137(a)-(c).<sup>2</sup> It does not appear that any of the exceptions from subsection (c) apply to any of the e-mail addresses at issue, which we have marked. Therefore, the comptroller must withhold the marked e-mail addresses under section 552.137, unless the comptroller has received consent to release this information. As you raise no exception to disclosure, the comptroller must release the remainder of the submitted information to the requestor.

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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell  
Assistant Attorney General  
Open Records Division

RTM/jb

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception, such as section 552.137, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 341472

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

Mr. Mansoor Ghori  
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Mr. Kevin Dragan  
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Mr. Ward Greenwood  
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