



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 21, 2011

Mr. Dan Junell
Assistant General Counsel
Teacher Retirement System
1000 Red River Street
Austin, Texas 78701-2698

OR2011-17199

Dear Mr. Junell:

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# 436721.

The Teacher Retirement System of Texas (the "system") received a request for each quarterly report pertaining to two specified investment funds and any other fund sponsored by Walton Street Capital ("Walton") during a specified period. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.143 of the Government Code. You also state you have notified Walton of the request and of its right to submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from Walton. We have considered the exceptions you claim and the arguments submitted by Walton and reviewed the submitted information.

Initially, you state some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2009-03330 (2009). In that ruling, we determined the system must withhold certain investment information under section 552.143 of the Government Code, with the exception of

information that must be released pursuant to section 552.0225 of the Government Code. With regard to the requested information that is identical to the information previously requested and ruled upon by this office in the prior ruling, we conclude that, as we have no indication the law, facts, or circumstances on which the prior ruling was based have changed, the system must continue to rely upon Open Records Letter No. 2009-03330 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances, on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). You explain the submitted information is not encompassed by the previous ruling. Therefore, we will address the submitted arguments for this information.

The system acknowledges some of the submitted information is subject to section 552.0225 of the Government Code. Section 552.0225(b) provides as follows:

The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under [the Act]:

- (1) the name of any fund or investment entity the governmental body is or has invested in;
- (2) the date that a fund or investment entity described by Subdivision (1) was established;
- (3) each date the governmental body invested in a fund or investment entity described by Subdivision (1);
- (4) the amount of money, expressed in dollars, the governmental body has committed to a fund or investment entity;
- (5) the amount of money, expressed in dollars, the governmental body is investing or has invested in any fund or investment entity;
- (6) the total amount of money, expressed in dollars, the governmental body received from any fund or investment entity in connection with an investment;
- (7) the internal rate of return or other standard used by a governmental body in connection with each fund or investment entity

it is or has invested in and the date on which the return or other standard was calculated;

(8) the remaining value of any fund or investment entity the governmental body is or has invested in;

(9) the total amount of fees, including expenses, charges, and other compensation, assessed against the governmental body by, or paid by the governmental body to, any fund or investment entity or principal of any fund or investment entity in which the governmental body is or has invested;

(10) the names of the principals responsible for managing any fund or investment entity in which the governmental body is or has invested;

(11) each recusal filed by a member of the governing board in connection with a deliberation or action of the governmental body relating to an investment;

(12) a description of all of the types of businesses a governmental body is or has invested in through a fund or investment entity;

(13) the minutes and audio or video recordings of each open portion of a meeting of the governmental body at which an item described by this subsection was discussed;

(14) the governmental body's percentage ownership interest in a fund or investment entity the governmental body is or has invested in;

(15) any annual ethics disclosure report submitted to the governmental body by a fund or investment entity the governmental body is or has invested in; and

(16) the cash-on-cash return realized by the governmental body for a fund or investment entity the governmental body is or has invested in.

Gov't Code § 552.0225(b). We agree the type of information you have marked is subject to section 552.0225(b) of the Government Code.¹ The exceptions to disclosure found in the Act, including sections 552.104, 552.110, and 552.143, do not apply to information that is

¹You state the information you have marked is a representative sample of the information that is deemed public under section 552.0225(b).

made public by section 552.0225. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, the system must release the types of information you have marked pursuant to section 552.0225(b) of the Government Code.

You assert the remaining information is excepted from disclosure under section 552.143(a) of the Government Code. Section 552.143 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- 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).

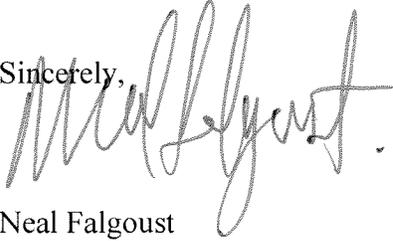
Gov't Code § 552.143(a), (b). You state the remaining information consists of information held by the system that was prepared and/or provided by a private investment fund. You also state the remaining information constitutes pre- and post-investment due diligence information about the system's investments in Walton. You inform us the information you seek to withhold is not subject to section 552.0225(b) and has not been released. *See id.* § 552.0225(b). Based on your representations and our review, we agree the system must withhold the remaining information under section 552.143 of the Government Code. As our ruling is dispositive, we do not address the remaining arguments against disclosure.

In summary, the system must continue to rely upon Open Records Letter No. 2009-03330 as a previous determination and withhold or release any responsive information in accordance with that ruling. The system must release the types of information you have marked pursuant to section 552.0225(b) of the Government Code. The system must withhold the remaining 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 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, toll free at (888) 672-6787.

Sincerely,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/agn

Ref: ID# 436721

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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