



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 11, 2012

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

OR2012-10740

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# 458727.

The Teacher Retirement System of Texas (the "system") received a request for information related to any meetings or presentations made by EIG Energy, EIG Global Energy Partners, or any of its affiliated funds seeking investment from the system. You claim portions of the requested information are excepted from disclosure under sections 552.101, 552.104, 552.113, 552.137, and 552.143 of the Government Code. You also state release of the requested information may implicate the proprietary interests of Energy Infrastructure Group ("EIG"). Accordingly, you state, and provide documentation showing, you notified EIG of the request for information and of its 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 EIG. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

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<sup>1</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.

Initially, we note you have marked portions of the submitted information as not responsive to the instant request. The system need not release nonresponsive information in response to this request, and this ruling will not address that information.

The system acknowledges some of the submitted information, which you have marked, 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.<sup>2</sup> The exceptions to disclosure found in the Act, including sections 552.104, 552.110, 552.137, and 552.143, do not apply to information that is 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 responsive 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,

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<sup>2</sup>You state the information you have marked is a representative sample of the information that is deemed public under section 552.0225(b).

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).

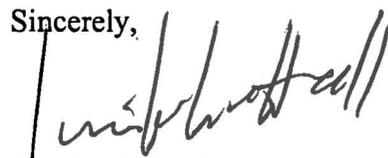
Gov't Code § 552.143(a), (b). You state the remaining responsive information consists of information held by the system that was prepared and/or provided by a private investment fund. You also state the remaining responsive information constitutes pre- and post-investment due diligence information about the system's investments in EIG. 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 responsive information under section 552.143 of the Government Code.<sup>3</sup>

In summary, 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 responsive 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](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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/som

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<sup>3</sup>As our ruling is dispositive, we need not address EIG's arguments against disclosure or the system's remaining arguments against disclosure.

Ref: ID# 458727

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Robert L. Vitale  
Chief Legal Officer  
1700 Pennsylvania Avenue, NW Suite 800  
Washington, D.C. 20006  
(w/o enclosures)

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