



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 11, 2012

Mr. Christopher Sterner
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2012-19881

Dear Mr. Sterner:

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# 478355 (OOG ID# 275-12).

The Office of the Governor (the "governor's office") received a request for executed Emerging Technology Fund ("ETF") agreements, amendments, and supporting documents since January 1, 2005. You state the governor's office has released some of the requested information but claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you inform 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. 2012-00238 (2012). In Open Records Letter No. 2012-00238, we determined the governor's office must withhold the requested information under section 552.101 of the Government Code in conjunction with section 490.057 of the Government Code. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, to the extent the information in the current request is identical to the information previously requested and ruled upon by this office, we conclude the governor's office must continue to rely on Open Records Letter No. 2012-00238 as a previous determination and withhold the information in accordance with that ruling. To the extent the

submitted information is not subject to Open Records Letter No. 2012-00238, we will address your arguments against disclosure.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 490.057 of the Government Code addresses the confidentiality of certain information pertaining to the ETF. *See id.* § 490.057. *See generally id.* §§ 490.101, 490.102, 490.103. Section 490.057 provides the following:

(a) Except as provided by Subsection (b), information collected by the governor's office, the [Texas Emerging Technology Advisory Committee (the "committee")], or the committee's advisory panels concerning the identity, background, finance, marketing plans, trade secrets, or other commercially or academically sensitive information of an individual or entity being considered for, receiving, or having received an award from the fund is confidential unless the individual or entity consents to disclosure of the information.

(b) The following information collected by the governor's office, the committee, or the committee's advisory panels under this chapter is public information and may be disclosed under [the Act]:

(1) the name and address of an individual or entity receiving or having received an award from the fund;

(2) the amount of funding received by an award recipient;

(3) a brief description of the project that is funded under this chapter;

(4) if applicable, a brief description of the equity position that the governor, on behalf of the state, has taken in an entity that has received an award from the fund; and

(5) any other information designated by the committee with the consent of:

(A) the individual or entity receiving or having received an award from the fund, as applicable;

(B) the governor;

(C) the lieutenant governor; and

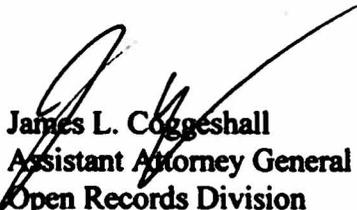
(D) the speaker of the house of representatives.

Id. § 490.057. You state the submitted information was collected by the governor's office. You also assert the information concerns and explicitly reveals the identity, background, finances, and marketing plans of entities that have received ETF awards. You explain the entities concerned have not provided the governor's office with consent to disclose the information. Further, you state the submitted information is not subject to section 490.057(b).¹ Based on your representations, we conclude the submitted information is confidential under section 490.057(a) of the Government Code and the governor's office must withhold it under section 552.101 of the Government Code on that ground.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 478355

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹You inform us the governor's office has released the requested information subject to section 490.057(b).

