



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 13, 2012

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

OR2012-20085

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# 475161 (OOG ID# 254-12).

The Office of the Governor (the "governor's office") received a request for compliance reports submitted by Terrabon, Inc. ("Terrabon") as an Emerging Technology Fund ("ETF") recipient. You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Terrabon. Accordingly, you state you notified Terrabon 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 considered the exception you claim and reviewed the submitted information.

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-.103. Section 490.057 provides:

(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.

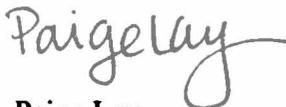
*Id.* § 490.057. You state the submitted information was collected by the governor's office. You represent the information reveals the identity, background, finances, and marketing plans of Terrabon, an ETF awardee, and, therefore, is confidential under subsection 490.057(a) and must be withheld from release pursuant to section 552.101 of the Government Code. Additionally, you state Terrabon has not consented to release of its information. Based upon your representations and our review, we find the information at issue concerns the identity, background, finance, and marketing plans of an entity that received an ETF award. However, we note, and you acknowledge, that any information listed in subsection 490.057(b) of the Government Code is public information and must be

released. Therefore, with the exception of information that is subject to public release under subsection 490.057(b), which you state the governor's office has released, we conclude the governor's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with subsection 490.057(a) 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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/tch

Ref: ID# 475161

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

Terrabon, Inc.  
c/o Mr. Christopher Sterner  
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Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711  
(w/o enclosures)