

## SDIC Meetings – Guidance for Use of Executive Session

It is the intent and desire of the Investment Council to conduct as much business as possible in open session. In certain circumstances, executive sessions are appropriate and necessary to protect information important to the success of the Council and its investment partners.

### Investment information eligible for discussion in executive session

Information relating to investment strategies, research, and potential/existing investments is exempt from public disclosure and eligible for discussion in executive session.

Executive sessions will be limited to (a) discussion of external party provided confidential information and documents, and (b) discussion of internal confidential and proprietary information.

### Reasons executive session necessary

- To protect information that is confidential by law.
- Open meeting materials available in advance of a Council meeting are required by law to be posted on the state's Boards & Commissions website. Executive session materials are exempt from the posting requirement.
- Discussion of confidential information in open session that reveals the nature of the information may breach open records exemptions which could impair the ability to protect the information from a public records request. Discussions of confidential information in open session could also impede thorough discussion and understanding of information which could make it difficult to fulfill fiduciary responsibilities.

### Summary of relevant laws

- SDCL 1-25-1.4 states that "Public meeting materials that are available before a public meeting" must be posted to a state website.
- SDCL 1-27-1.16 exempts executive session and confidential materials from public materials.
- SDCL 1-25-10 "The State Investment Council, in executive session, may discuss and consider any document or information exempt from public disclosure requirements under the provisions of subdivision 1-27-1.6(5)." This is in addition to agenda items already allowed in executive sessions such as personnel issues.
- SDCL 1-27-1.6(5) states that financial and commercial information supplied to or developed by the investment council relating to investment strategies, research, and potential/existing investments of public fund are exempt from disclosure.
- SDCL 1-27-30 states that proprietary or trade secret information obtained by a state agency from or concerning a private entity is confidential.