



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 25, 2019

Ms. Carla Bienkowski
Legal Assistant
Texas Credit Union Department
914 East Anderson Lane
Austin, Texas 78752-1699

OR2019-10974

Dear Ms. Bienkowski:

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# 761716.

The Texas Credit Union Department (the "department") received a request for names and dates of credit unions examined during a specified time period.¹ You state you will release some information to the requestor. You claim some of the requested information is excepted from disclosure under sections 552.101, 552.110, and 552.112 of the Government Code. You also state you notified the Cornerstone Credit Union League ("Cornerstone") and the Credit Union Coalition of Texas ("CUC") of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from Cornerstone, CUC, and the Texas Department of Banking. We have considered the submitted arguments and reviewed the submitted information.

¹You state the department sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

Section 552.110 of the Government Code protects (1) trade secrets, and (2) commercial or financial information the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained. *See id.* § 552.110(a)-(b). Although the department argues some of the information at issue is excepted under section 552.110, that exception is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the department's argument under section 552.110.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information made confidential by other statutes. You assert some of the information at issue is confidential pursuant to section 126.002 of the Finance Code, which provides, in relevant part:

(a) Except as provided by Subsections (b) and (c), information obtained directly or indirectly by the department in any manner, including by application or examination, concerning the financial condition or business affairs of a credit union and the files and records of the department relating to that information, except a statement intended for publication, are confidential.

(b) Confidential information may not be disclosed to a member of the [credit union] commission, and a member of the commission may not be given access to the files or records of the department, except that the [credit union] commissioner may disclose to the commission information, files, and records pertinent to a hearing or matter pending before the commission or the commissioner.

(c) The commissioner may disclose the information described by Subsection (a) to a law enforcement agency, a share insuring organization, or another department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines that disclosure is necessary or proper to enforce the laws of this state applicable to credit unions.

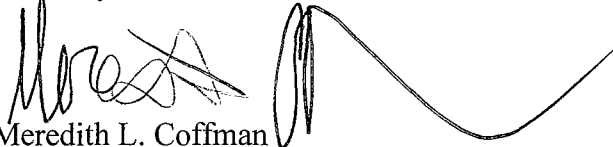
Fin. Code § 126.002(a)-(c). You state the information at issue was compiled by the department from information obtained, both directly and indirectly, during the examination process. You state this information concerns the financial condition and business affairs of credit unions. Further, you state the release provisions in subsections 126.002(b) and (c) are not applicable in this instance. *See id.* § 126.002(b)-(c). Therefore, based on your representations and our review, we conclude the information you have indicated is confidential pursuant to subsection 126.002(a) of the Finance Code and must be withheld

under section 552.101 of the Government Code.² The department must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/mo

Ref: ID# 761716

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information. Although in this instance we can determine the extent to which this fungible information may be exempted from disclosure, we advise the department in the future to submit for review the actual information that it seeks to protect from disclosure and for which it seeks a ruling from this office. See Gov't Code §§ 552.301, .302.