



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 27, 2020

Mr. Sid Pounds
Open Records Attorney
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714

OR2020-11865

Dear Mr. Pounds:

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# 824417 (TDI #R007374).

The Texas Department of Insurance (the "department") received a request for a specified state rating. Although the department takes no position as to whether the submitted information is excepted under the Act, the department states release of the submitted information may implicate the proprietary interests of Insurance Services Office, Inc. ("ISO"). Accordingly, the department states, and provides documentation showing, it notified ISO 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 ISO. We have reviewed the submitted information and considered the submitted arguments.

ISO argues, and we agree, some of the submitted information is not responsive to the instant request for information. We note the requestor only seeks the specified state rating. Accordingly, any additional submitted information is not responsive to the present request for information because it does not pertain to the specific information requested. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.¹

¹ As we are able to make this determination, we need not address ISO's remaining arguments against disclosure of this information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). In its comments to this office, ISO states it does not object to release of the responsive information. Accordingly, we have no basis to conclude ISO has a protected proprietary interest in the responsive information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the department may not withhold the responsive information on the basis of any proprietary interest ISO may have in the information. As no exceptions to disclosure have been raised, the department must release the responsive 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Alexandra C. Burks
Attorney
Open Records Division

ACB/rm

Ref: ID# 824417

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)