



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 11, 2020

Ms. Mary Dougherty
Open Records Attorney
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714

OR2020-31047

Dear Ms. Dougherty:

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# 857506 (TDI# R009562).

The Texas Department of Insurance (the "department") received a request for specified information pertaining to three cities. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Insurance Services Offices, Inc. ("ISO"). Accordingly, you state, and provide documentation showing, you notified ISO of the request for information and of its right to submit arguments to this office as to why the information at issue 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 arguments from ISO. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the present request for information because it does not consist of the type of information requested or was created after the department received the present request. 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 the present request.¹

¹ The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Section 552.110(c) of the Government Code exempts from disclosure “commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(c). ISO asserts some of its information at issue consists of commercial or financial information subject to section 552.110(c). Upon review, we find ISO has demonstrated the information at issue constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the department must withhold the information we marked under section 552.110(c) of the Government Code. The department must release the remaining 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,

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/be

Ref: ID# 857506

Enc. Submitted documents

c: Requestor
(w/o enclosures)