



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 20, 2022

Mr. James Kelly
Open Records Attorney
General Counsel Division
Texas Department of Insurance
P.O. Box 12030
Austin, Texas 78711

OR2022-32440

Dear Mr. Kelly:

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# 979375 (TDI Ref. No. R016400).

The Texas Department of Insurance (the "department") received a request for the Public Protection Classification ratings pertaining to fire departments within the State of Texas. Although you take no position regarding whether the submitted information is excepted from disclosure, you state release of the information at issue may implicate the proprietary interests of Insurance Services Office, Inc. ("ISO"). Accordingly, you state, and provide documentation demonstrating, the department 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 considered the submitted arguments and reviewed the submitted information.

Initially, we note ISO argues against the release of information the department has not submitted to this office for our review. This ruling does not address information that was not submitted by the department and is limited to the information the department has

submitted for our review.¹ *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested).

ISO asserts the submitted information is excepted from disclosure under section 552.110 of the Government Code. Section 552.110(b) of the Government Code states “information is [excepted from required disclosure] if it is demonstrated based on specific factual evidence that the information is a trade secret.” *See id.* § 552.110(b). Section 552.110(a) defines a trade secret as all forms and types of information if:

- (1) the owner of the trade secret has taken reasonable measures under the circumstances to keep the information secret; and
- (2) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

Id. § 552.110(a). Section 552.110(c) of the Government Code excepts 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[.]” *Id.* § 552.110(c). Upon review, we find ISO has demonstrated some of the information at issue, which we have indicated, constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the department must withhold the information we have indicated under section 552.110(c) of the Government Code.² However, we find ISO has failed to provide specific factual evidence demonstrating any portion of the remaining information at issue is a trade secret or commercial or financial information, the release of which would result in substantial competitive harm provide specific factual evidence. Therefore, the department may not withhold any portion of the remaining information under section 552.110 of the Government Code. 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open

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

² As our ruling is dispositive, we need not address ISO's remaining argument against disclosure of this information.

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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/pt

Ref: ID# 979375

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)