

264—51.13(17A,22) Availability of records.

51.13(1) *Open records.* Board records are open for public inspection and copying unless otherwise provided by rule or law.

51.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 73.2)
b. Tax records made available to the board. (Iowa Code sections 422.20 and 422.72)
c. Records which are exempt from disclosure under Iowa Code section 22.7, including, but not limited to:

(1) Industrial prospect files of the department which are considered confidential under Iowa Code section 22.7(8).

(2) Trade secrets which are treated as confidential under Iowa Code section 22.7(3).

(3) Reports which, if released, would give advantage to competitors and serve no public purpose. These records are considered confidential under Iowa Code section 22.7(6).

(4) Communications not required by rule, law, procedure or contract to the extent that the board reasonably believes that such communications would not be made if the supplier knew the information would be made available for general public examination. These records are confidential under Iowa Code section 22.7(18).

d. Client database. The department maintains a database of business prospects which may be made available to the board for review. This list identifies companies that may be seeking to expand or locate their businesses in Iowa. This list is considered confidential under Iowa Code sections 22.7(3), 22.7(6), 22.7(8) and 22.7(18).

e. Minutes of closed meetings of a governmental body as permitted under Iowa Code section 21.5(4).

f. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "e."

g. Those portions of board staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by department staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics on allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of those statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the board. (Iowa Code sections 17A.2 and 17A.3)

h. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 1.503(3), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Iowa Code of Professional Responsibility for Lawyers, and case law.

i. Data processing software, as defined in Iowa Code section 22.3A, which is developed by a governmental body.

j. Log-on identification passwords, Internet protocol addresses, private keys, or other records containing information which might lead to disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.

k. Records which if disclosed might jeopardize the security of an electronic transaction pursuant to Iowa Code chapter 554D.

l. Any other records considered confidential by law.

51.13(3) *Authority to release confidential records.* The board may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other provision of law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 51.5(17A,22). If the board

initially determines that it will release such records, the board may, when appropriate, notify interested parties and withhold the records from inspection as provided in subrule 51.4(3).