

Question Clarification:

Regarding the question about their inability to make their proprietary business model public information, the response was: "If your model and information is proprietary, you will need to mark it as such." They don't know how to interpret this response. His question to me was, so if they mark it as proprietary, then what happens. Is it still public information, or is there then some assurance that this information will be protected?

Ohio's Uniform Trade Secrets Act defines a "trade secret" at R.C. 1333.61(D) to mean:

[I]nformation, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

An entity claiming trade secret status of certain information must identify and demonstrate that the material is included in categories of protected information within the definition of "trade secret", and additionally, must take some active steps to maintain secrecy. Therefore, any material submitted to ODH which the bidder claims as a "trade secret" must be clearly marked "Trade Secret" with an explanation of how that information is included in categories of protected information.