



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 25, 2015

Mr. Bob Davis
Office of Agency Counsel
Legal Section MC 110-1C
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2015-12566

Dear Mr. Davis:

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# 569694 (TDI# 160445).

The Texas Department of Insurance (the "department") received a request for the most recent Medicare supplement rate filings submitted to the department by specified companies.¹ You state the department will release some information. Further, you state pursuant to the previous determination in Open Records Decision No. 684 (2009), you will redact personal e-mail addresses subject to section 552.137 of the Government Code.² 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 USAA Life Insurance Company ("USAA"). Accordingly, you state, and provide documentation showing, you notified USAA 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

¹The department states it sent a cost estimate of charges pursuant to section 552.2615 of the Government Code and a demand for a deposit of such charges pursuant to section 552.263 of the Government Code. *See* Gov't Code §§ 552.2615, .263.

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including e-mail addresses of members of the public under section 552.137, without the necessity of requesting an attorney general decision.

explain applicability of exception in the Act in certain circumstances). We have received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments and reviewed the submitted 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). As of the date of this letter, we have not received comments from USAA explaining why the submitted information should not be released. Therefore, we have no basis to conclude USAA has protected proprietary interests in the submitted 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 submitted information on the basis of any proprietary interest USAA may have in the information. As no exceptions to disclosure have been raised, the submitted information must be released.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 569694

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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