



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2011

Ms. Cynthia Villarreal-Reyna
Section Chief, Agency Counsel
Legal & Compliance Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2011-04915

Dear Ms. Villarreal-Reyna:

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# 415267 (ORR# 112483).

The Texas Department of Insurance (the "department") received a request for health filings of specified companies during a specified period of time. You state the department will release some of the requested information. You do not take a position as to whether the submitted information is excepted under the Act; however, you state, and provide documentation showing, you notified Aetna Life Insurance Company ("Aetna") and the National Union Fire Insurance Company ("National") of the department's receipt of the request for information and of the right of each to submit arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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). You state Aetna informed the department that it does not object to the release of its information and, thus, you released Aetna's information to the requestor. We have reviewed the submitted responsive 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 requested information relating to it should be withheld from disclosure. See Gov't Code § 552.305(d)(2)(B). As of the date of this letter, National has not submitted to this office any reasons explaining why its submitted information should not be released. We thus have no basis for concluding any portion of the submitted information constitutes proprietary information of that company, and the department may not withhold any portion of the submitted information on that basis. See 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 must release the submitted information to the requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tf

Ref: ID# 415267

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Chuck Chulick
Aetna Life Insurance Company
2777 North Stemmons Freeway, Suite 300
Dallas, Texas 75207
(w/o enclosures)

Mr. John Doyle
National Union Fire Insurance Company of Pittsburgh, Pennsylvania
175 Water Street, 18th Floor
New York, New York 10038
(w/o enclosures)