



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 10, 2012

Ms. Cynthia Villarreal-Reyna  
Director - Office of Agency Counsel  
Legal Section MC 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2012-00435

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# 441869 (TDI# 121194).

The Texas Department of Insurance (the "department") received a request for the rates of specified "medigap" insurance providers for 2008, 2009, 2010, and 2012. You state you have released most of the requested information. Although you take no position on whether the submitted information is excepted from disclosure, you state release of this information may implicate the proprietary interests of Blue Cross Blue Shield of Texas ("Blue Cross") and United of Omaha Life Insurance Company ("Omaha"). Accordingly, you have notified both Blue Cross and Omaha of the request and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received correspondence from Blue Cross stating it does not object to release of its information. We have reviewed the submitted information.

We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, we have not received correspondence from Omaha. Thus, Omaha has

not demonstrated that it has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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 interests Omaha 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.oag.state.tx.us/open/index\\_orl.php](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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 441869

Enc. Submitted documents

Blue Cross Blue Shield of Texas  
c/o Ms. Brooke A. Spence  
Greenberg Traurig, L.L.P.  
2101 L Street, N.W., Suite 1000  
Washington, D.C. 20037  
(Third party w/o enclosures)

Mr. Michael Huss  
United of Omaha Life Insurance Company  
Mutual of Omaha Plaza  
Omaha, Nebraska 68175  
(Third party w/o enclosures)

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c/o Corporation Service Company  
211 East 7<sup>th</sup> Street, Suite 620  
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