



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 10, 2012

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

OR2012-10623

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# 459174 (TDI #127097).

The Texas Department of Insurance (the "department") received a request for the ten-year rate increase history for Medicare supplemental policies for non-smoking females and males for six specified companies. The department will release some information to the requestor. Although the department takes no position as to whether the information is excepted from disclosure under the Act, the department states release of the information may implicate the proprietary interests of Sterling Life Insurance Company ("Sterling"), United Healthcare Insurance Company ("United"), and Mutual of Omaha Insurance Company ("Mutual"). Accordingly, the department notified Sterling, United, and Mutual of the request for information and their right to submit arguments stating 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); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances).

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 ruling, we have not received comments from United or Sterling. Further, although we received comments from Mutual, Mutual did not assert a proprietary interest in the submitted information or raise any exceptions to disclosure. Thus, we have no basis to conclude United, Sterling, or Mutual 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 the 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 any of the information at issue on the basis of any proprietary interest United, Sterling, or Mutual may have in the information. The department must release the information.

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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/bs

Ref: ID# 459174

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Pamela Bishop  
Manager, Market Conduct  
Corporate Compliance and Ethics Division  
Mutual of Omaha Insurance Company  
Mutual of Omaha Plaza  
Omaha, Nebraska 68175  
(w/o enclosures)

Ms. Robin H. Wilcox  
Secretary  
Sterling Life Insurance Company  
2219 Rimland Drive  
Bellingham, Washington 98226  
(w/o enclosures)

Mr. Bruce McCandless  
Mr. Mitchell Williams  
United Healthcare Insurance Company  
106 East 6<sup>th</sup> Street, Suite 300  
Austin, Texas 78701-3661  
(w/o enclosures)