



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 1, 2016

Mr. Dirk Johnson
General Counsel
Legal Section
Texas Department of Insurance
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1645

OR2016-02422

Dear Mr. Johnson:

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# 596095 (TDI #166978).

The Texas Department of Insurance (the "department") received a request for information pertaining to DWC-110012 and DWC 3811. You state the department has released some information. You state the department is withholding some information in accordance with a previous determination issued in Open Records Letter No. 2005-00409 (2005).¹ 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 U.S. Healthworks. Accordingly, you state, and provide documentation showing, you notified U.S. Healthworks of the request for information and of its right to submit arguments to this office as to why the submitted information 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 explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

We note 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

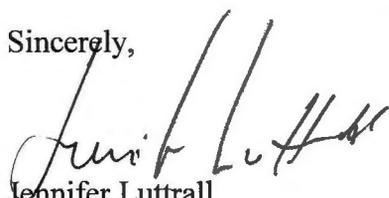
¹Open Records Letter No. 2005-00409 authorizes the department to withhold under section 552.101 of the Government Code in conjunction with section 402.092 of the Labor Code, without the necessity of requesting a decision under the Act, an investigative file maintained under section 414.005 of the Labor Code unless the information is subject to the release provisions found in section 402.092 or other provisions of law or is claim file information subject to section 402.092(c). *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from U.S. Healthworks explaining why its information should not be released. Therefore, we have no basis to conclude U.S. Healthworks has a protected proprietary interest 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 any of the information at issue on the basis of any proprietary interest U.S. Healthworks may have in it. As no exceptions 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 596095

Enc. Submitted documents

c: Requestor
(w/o enclosures)

U.S. Healthworks
25124 Springfield Court, Suite 200
Valencia, California 91355
(w/o enclosures)