



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 31, 2016

Mr. Stanton Strickland  
Deputy Commissioner  
Legal Division  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2016-24184

Dear Mr. Strickland:

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# 632372 (TDI #175664).

The Texas Department of Insurance (the "department") received a request for the underwriting guidelines, including any previous guidelines that have been revised, pertaining to a specified filing and any additional filings regarding manufactured home policies by Foremost County Mutual Insurance Company ("Foremost"). Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Foremost. Accordingly, you state, and provide documentation showing, you notified Foremost 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 received comments from Foremost. We have considered the submitted arguments and reviewed the submitted information.

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Id.* at 841. Foremost states it has competitors. In addition, Foremost states disclosure of the requested information would allow its competitors to learn of Foremost's

key business decisions regarding risk acceptance and give competitors the ability to target Foremost's customer base. Further, Foremost argues release of the requested information would give its competitors an unfair advantage by allowing competitors to undercut Foremost's pricing, rates, and practices. After review of the submitted information and consideration of the arguments, we find Foremost has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the department may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</sup>

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](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,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/akg

Ref: ID# 632372

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.