



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 16, 2022

Ms. Mary Dougherty
Open Records Attorney
Texas Department of Insurance
P.O. Box 12030
Austin, Texas 78711

OR2022-17347

Dear Ms. Dougherty:

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# 954131 (TDI# R015137).

The Texas Department of Insurance (the "department") received a request for the points assignment pertaining to a specified merit rating. Although the department takes no position as to whether the submitted information is excepted under the Act, the department states release of the submitted information may implicate the proprietary interests of National Summit Insurance Company ("NSIC"). Accordingly, the department states, and provides documentation showing, it notified NSIC 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 NSIC. We have reviewed the submitted information and the submitted arguments.

Section 552.1101(a) of the Government Code excepts from disclosure "information submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification[.]" Gov't Code § 552.1101(a) (emphasis added). Additionally, we note section 552.1101(b) lists certain types of information to which section 552.1101(a) does not apply. *See id.* § 552.1101(b). Upon review, we find NSIC has failed to demonstrate the applicability of section 552.1101(a) to its information. Accordingly, the department may not withhold the

submitted information under section 552.1101(a) of the Government Code. Consequently, the department must release the submitted 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jm

Ref: ID# 954131

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)