



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

November 9, 1989

Dr. Robert Bernstein  
Commissioner of Health  
Texas Department of Health  
1100 W. 49th Street  
Austin, Texas 78756

Dear Dr. Bernstein:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 7891; this decision is OR89-361.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. Attorney General Opinion H-436 (1974). The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Texas Department of Health received a request for a number of documents relating to the expenditure of public funds by the Laredo-Webb County Health Department. You indicate that the department is "prepared to submit for inspection and copying all of the requested documents . . . with the exception of one." You claim section 6(1) of the act, as applied in Attorney General Opinion H-90 (1974), controls this request.

Section 6 provides that certain information held by governmental bodies is specifically made public by the act. Subsection (1) of section 6 makes public:

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reports, audits, evaluations, and investigations made of, for, or by, governmental bodies upon completion. (Emphasis added.)

Attorney General Opinion H-90 interpreted the language underlined above to mean that such information is public only upon completion.

The reasoning in Attorney General Opinion H-90 has been expressly rejected in subsequent open records decisions. See, e.g., Open Records Decision Nos. 344, 321 (1982). Section 3(a) contains the act's only exceptions. Id. Section 6 of the act, which lists public information, does not provide exceptions by negative implication from the fact that information does not fall within the list. Consequently, because you raise no other exceptions, the information must be released without delay.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-361.

Yours very truly,

*Open Government Section*  
*of the Opinion Committee* 

Open Government Section  
of the Opinion Committee  
Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/le

Ref.: ID# 7891

Enclosures:     ORD-344  
                  ORD-321  
                  Table of Decisions

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