



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 22, 1994

Ms. Alesia L. Sanchez
Staff Attorney
Legal Services, 110-1A
Texas Department of Insurance
P. O. Box 149104
Austin, Texas 78714-9104

OR94-566

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 24339.

The Texas Department of Insurance ("the department") received a request for certain information concerning Texas Employers' Insurance Association. You say some of the requested information will be made available to the requestor, but seek to withhold portions of the requested information based on sections 552.111 and 552.112 of the Government Code.¹

Section 552.111 of the Government Code, an exception to the required public disclosure of information in the Open Records Act, applies to internal communications that consist of advice, opinion, or recommendation reflecting the policymaking processes of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not apply to purely factual information that is severable from the opinion portions of the memorandum. *See id.* Most of the information that you seek to withhold under this exception is factual; section 552.111 does not apply to this information. We have marked the portions of the documents which you may withhold under section 552.111 of the Government Code.

¹We note that while you did not raise section 552.107 of the Government Code in your letter requesting an open records decision, the cover sheet enclosed with the "representative samples" listed section 552.107 as a "reason [the samples] will not be produced." However, you did not mark any of the samples as information you seek to withhold from disclosure under section 552.107. Thus, we do not consider whether section 552.107 applies to the requested information.

Section 552.112 applies to "information contained in or related to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both." Gov't Code § 552.112(a). The insurance company is a financial institution for purposes of this exception. *See* Open Records Decision No. 158 (1977). We conclude that pursuant to section 552.112 of the Government Code, you may withhold from required public disclosure the "Examination Report" of the Texas Employers' Insurance Association as well as the "work papers" that relate to that examination. *See id.* at 7.

In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499, 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 contact this office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/MAR/rho

Ref.: ID# 24339

Enclosures: Marked documents

cc: Mr. Karl G. Dial
Fulbright & Jaworski
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201
(w/o enclosures)