



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 17, 1995

Ms. Sandra C. Joseph
Open Records Counsel/Disclosure Officer
Comptroller of Public Accounts
L.B.J. State Office Building
111 East 17th Street
Austin, Texas 78701

OR95-1258

Dear Ms. Joseph:

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# 36605.

The Comptroller of Public Accounts (the "Comptroller") received an open records request for the "PVS Recommendation of [the] Hearing Examiner" for eight school districts. As a representative sample of the requested information, you submitted an order of the comptroller concerning the Santa Fe Independent School District.

You contend the Comptroller may withhold the requested information about six school districts from the public pursuant to section 552.103(a) of the Government Code. To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). The purpose of the exception is to protect the litigation interest of the governmental body claiming the exception. It allows the discovery rules to control the release of information that relates to pending or potential litigation. *See* Open Records Decision No. 551 (1990).

In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). However, we note that each of the requested recommendations has been released to one of the petitioners in the pending litigation. Therefore, we do not believe the Comptroller has a discovery interest in withholding the requested recommendations from disclosure under section 552.103. Accordingly, you must release the requested information.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 36605

Enclosures: Submitted documents

cc: Ms. Kathy Day
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