



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

November 21, 1989

Mr. Harry Plomarity  
Executive Director  
Port of Corpus Christi  
Authority  
P.O. Box 1541  
Corpus Christi, Texas 78403

Dear Mr. Plomarity:

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# 7704; this decision is OR89-389.

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.

We have considered the exceptions you claimed and reviewed the documents at issue. Your request for an open records decision falls within the principles announced in previous determinations of this office, Open Records Decision Nos. 504, 494 (1988), copies of which are enclosed. For this reason, you must release the requested information.

The forms you submitted for review simply contain the quantity, unit of measure or "long tons," and type of product transferred. You do not show how release of this information would be likely to cause substantial competitive injury to the companies at issue, the first test under section 3(a)(10). With regard to the second test, the port

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authority has the authority to require the submission of the information at issue. Moreover, the public has a strong interest in this information.

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 OR89-389.

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# 7704

Enclosure: ORD-504  
ORD-494

cc: K.L. Berry  
Vice President  
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