



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTON
ATTORNEY GENERAL

April 24, 1990

Mr. Quinton Etzel
Attorney for the Val Verde
County Hospital District
P.O. Box 420248
Del Rio, Texas 78842-0248

OR90-154

Dear Mr. Etzel:

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# 8608.

Val Verde County Hospital District received a request for the following information related to a paving project contract:

1. Base course gradation test reports;
2. Moisture density relationship test reports;
3. Density test reports; and
4. Certificates of compliance for base course and prime coat material.

The hospital district claims exception to public disclosure of the requested information based on section 3(a)(11) of the Texas Open Records Act, article 6252-17a, V.T.C.S., which protects:

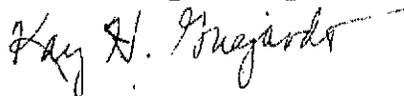
inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency.

The information in question, although created by an outside consultant pursuant to contract, rather than an employee of the agency, is inter-agency or intra-agency information. See Open Records Decision No. 462 (1987). However, upon examination of the materials sent for review, it is apparent that the information requested constitutes

facts. Facts and written observations of facts do not constitute "advice, opinion, or recommendation" and can not be withheld under section 3(a)(11). See Austin v. City of San Antonio, 630 S.W.2d 391 (Tex. App. - San Antonio 1982, writ ref'd n.r.e.); Open Records Decision No. 450 (1986). For this reason, you must release the requested 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 OR90-154.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/le

Ref.: ID# 8608

cc: Jay Miller Construction Company
Highway 90 East
Del Rio, Texas 78840