



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

December 3, 1990

Mr. James E. Saxton
Chairman
State Board of Insurance
1110 San Jacinto
Austin, Texas 78701-1998

OR90-567

Dear Mr. Saxton:

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# 10647.

The State Board of Insurance (the board) received two open records requests for an "internal audit report referenced in the September 7, 1990 issue of the Austin American Statesman" and related materials. You seek to withhold the report pursuant to section 3(a)(11) of the Open Records Act because the report is not in final form. You also contend that drafts of procedures manuals for internal audits, which also come within the ambit of the request, are protected from public disclosure pursuant to section 3(a)(11).

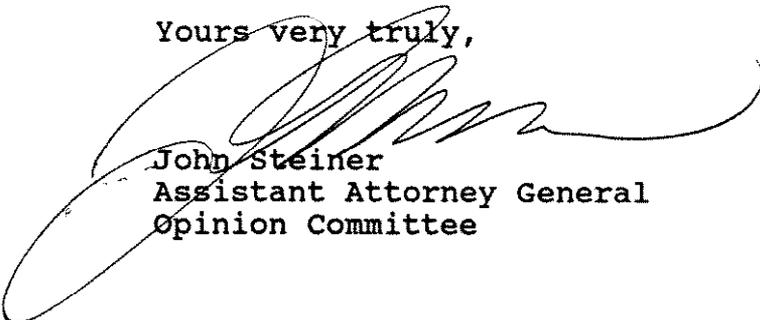
Your request with regard to the procedures manuals is governed by Open Records Decision No. 547 (1990). Drafts of agency procedures manuals that are the subject of ongoing deliberations come under the protection of section 3(a)(11). If the manuals are in fact subject to ongoing deliberations and are not currently in use, they may be withheld pursuant to section 3(a)(11); otherwise they must be released.

You similarly contend that because the audit report is not in its final form, it may be withheld pursuant to section 3(a)(11). Unlike a draft copy of the procedures manual, however, the audit report consists primarily of factual information that does not come under the protection of section 3(a)(11). See Open Records Decision No. 450 (1986); see also Open Records Decision No. 321 (1982). It is clear that section 3(a)(11) does not apply to all of the information submitted for review.

Your burden under section 7(a) is to request a decision on whether specific information is within specific exceptions. You did not, however, mark the information to show which specific portions of the requested records come under the protection of section 3(a)(11). A claim that an exception applies with no explanation of why it applies will not suffice. Attorney General Opinion H-436 (1974). We are returning to you the documents you submitted for review. Please resubmit the documents with markings to indicate exactly what information consists of advice, opinion, or recommendation that comes under the protection of section 3(a)(11), or otherwise explain how section 3(a)(11) applies to specific documents or portions thereof. You have 10 days from receipt of this letter in which to resubmit the documents at issue. Otherwise, the information must be released in its entirety, except as outlined above.

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 OR90-567.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/RWP/le

Ref.: ID# 10647
ID# 10755
ID# 10942

Enclosures: Submitted documents

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