



Office of the Attorney General

State of Texas

August 25, 1992

DAN MORALES
ATTORNEY GENERAL

Mr. Todd K. Brown
Executive Director
Texas Workers' Compensation Commission
Southfield Building, 4000 South IH-35
Austin, Texas 78704

OR92-517

Dear Mr. Brown:

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# 16924.

The Texas Workers' Compensation Commission (the "commission") has received a request for information relating to applicants recently interviewed for a certain position. Specifically, the requestor seeks "all records and documents of the candidates selected for interview for the position of Quality Control Specialists, San Antonio (92-423) . . . [including] all subsequent documents and records used in the selection process for that position including notes and recommendations of the interviewers." You advise us that some of the requested information has been made available to the requestor, including the portions of the "Prescreen Ranking Worksheet" and "applicant Selection/Approval Form" held to be public in a previous determination of this office. You have submitted to us for review, however, a memorandum dated July 10, 1992, and claim that it is excepted from required public disclosure by section 3(a)(11) of the Open Records Act.

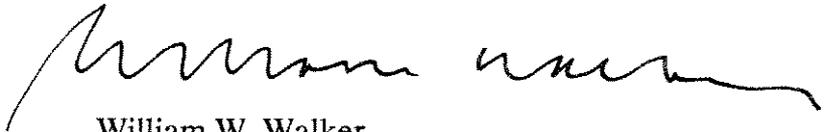
Section 3(a)(11) excepts from public disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency." The purpose of section 3(a)(11) is to protect from public disclosure advice, opinion, and recommendation used in the decisional process within an agency or between agencies. This is intended to encourage open and frank discussion in the deliberative process. *See, e.g., Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.); Attorney General Opinion H-436 (1974); Open Records Decision Nos. 538 (1990); 470 (1987). Purely factual information, however, does not constitute advice, opinion, or

recommendation and may not be withheld under section 3(a)(11). Open Records Decision No. 450 (1986).

We have examined the memorandum submitted for our review. We conclude that portions of the memorandum consist of advice, opinion, or recommendation. For your convenience, this information has been marked and may be withheld from required public disclosure under Open Records Act section 3(a)(11). The remaining information, however, is purely factual and must be released.

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 OR92-517.

Yours very truly,



William W. Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Enclosure: Marked Document

Ref.: ID# 16924

cc: Mr. Charles A. Weisel
Auditor III, Compliance and Practices
Texas Workers' Compensation Commission
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(w/o enclosure)