



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 6, 1995

Ms. Sandra C. Joseph  
Open Records Counsel/Disclosure Officer  
Comptroller of Public Accounts  
LBJ State Office Building  
111 E. 17th Street  
Austin, Texas 78774

OR95-1052

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# 35996.

The Comptroller of Public Accounts received a request for the final 1994 PVS ISD Summary Worksheet for Bonham ISD. You contend that the requested information is excepted from required public disclosure under section 552.103 of the Government Code.

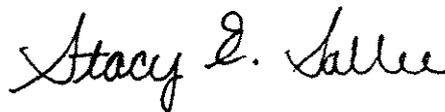
Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state is or may be a party. The comptroller has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The comptroller must meet both prongs of this test for information to be excepted under section 552.103(a).

You state that the requested information is related to litigation styled Bonham Independent School District v. Texas Comptroller of Public Accounts, Cause No. 95-09137. Therefore, you have demonstrated that there is pending litigation and met

the first prong of the test. As it is apparent from the face of the submitted document that the requested information relates to the litigation, you may withhold the requested information under section 552.103.<sup>1</sup>

We are resolving this matter with an 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 should 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,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/LBC/rho

Ref: ID# 35996

Enclosure: Submitted document

cc: Ms. Kathy Day  
Assistant Director  
Property Value Study Appeals Division  
Calame Linebarger Braham & Pena, L.L.P.  
P.O. Box 17428  
Austin, Texas 78760  
(w/o enclosure)

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<sup>1</sup>Although it is apparent from the face of the submitted document that the requested information at issue relates to the pending litigation, we advise the comptroller to provide a detailed description of the litigation and explain how the requested information is related or at the very least submit a copy of the relevant petition for future requests of this sort.