



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 16, 1995

Ms. Mary Barrow Nichols
General Counsel
Texas Workers' Compensation Insurance Fund
100 Congress Avenue, Suite 300
Austin, Texas 78701-4042

OR95-1252

Dear Ms. Nichols:

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# 36423.

The Texas Workers' Compensation Insurance Fund (the "fund") received three requests for information relating to three companies being investigated by the fund. You state that you are providing the requestors with certain underwriting information, but assert that most of the requested information is excepted from disclosure under section 552.101 of the Government Code. You have submitted to this office sample documents responsive to the request for review.¹

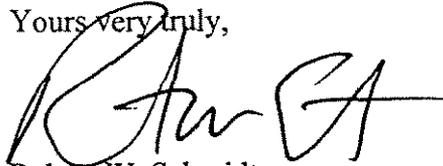
Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information made confidential by specific statutes. You assert that most of the requested information is made confidential by article 5.76-3, section 11A of the Insurance Code, as adopted by the 74th Legislature. Act of May 3, 1995, 74th Leg., R.S., ch. 94, § 10, 1995

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Act of May 29, 1995, 74th Leg., R.S., ch. 1035, §18, 1995 Tex. Sess. Law Serv. 5139 (Vernon) (to be codified as Gov't Code § 552.301(b)(3) (governmental body may submit representative samples of information if voluminous amount of information was requested); *see also* Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Tex. Sess. Law Serv. 882, 886 (Vernon). Subsection (a) of section 11A provides that "Information maintained in the investigation files of the fund is confidential and may not be disclosed . . ." except in four limited circumstances not applicable here. *Id.* Subsection (b) of section 11A further provides that "Fund investigation files are not open records for purposes of the open records law, Chapter 552, Government Code." *Id.* Investigation file is defined to mean "any information compiled or maintained by the fund with respect to a fund investigation authorized by law." *Id.* (to be codified as Ins. Code art. 5.76-3, § 11A(d)). You state that the information requested has been compiled and maintained in an investigation file as a part of an investigation currently being conducted by the fund pursuant to article 5.76-3, section 11 of the Insurance Code. Because the requested information appears to fall with the scope of section 11A, you must withhold this information.²

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,



Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/rho

Ref.: ID# 36423

Enclosures: Submitted documents

cc: Mr. Tom H. Stevens
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(w/o enclosures)

²Subsection (c) of section 11A provides that "Information in an investigation file that is information in or derived from a claim file, or an employer injury report or occupational disease report, is governed by the confidentiality provisions relating to that information." Act of May 3, 1995, 74th Leg., R.S., ch. 94, § 10, 1995 Tex. Sess. Law Serv. 882, 886 (Vernon). The fund did not indicate that any of the information was information in or derived from a claim file, employer injury report, or occupational disease report, nor was this apparent from the face of the sample documents. Therefore, we do not address whether or not this type of information may be withheld from public disclosure.

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