



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 13, 1996

Ms. Mary Nichols  
General Counsel  
Texas Workers' Compensation  
Insurance Fund  
221 W. 6th Street, Suite 300  
Austin, Texas 78701

OR96-1664

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# 100584.

The Texas Workers' Compensation Insurance Fund (the "Fund") received an open records request for a list of the Fund's "participants," including the participants' name, mailing address, telephone number, effective date of policy, total premium, classification, and current experience modifier. You inform us that you have made available to the requestor a list of the Fund's START program policyholders, but you contend that any other requested information is excepted from required public disclosure pursuant to section 552.101 of the Government Code in conjunction with article 5.76-3, § 2(b) of the Insurance Code. You have submitted for our review a representative sample of the requested information.<sup>1</sup>

Article 5.76-3, § 2(b) provides in part that the Fund may "refuse to release information relating to claims, rates, the Fund's underwriting guidelines, and other information that would give advantage to competitors or bidders." You note that in Open Records Letter No. 95-1453 (1995), this office determined that, pursuant to section 552.101

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<sup>1</sup>In 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* Open Records Decision Nos. 499 (1988), 497 (1988). 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.

in conjunction with article 5.76-3, § 2(b), the Fund was not required to release a list of all agents placing business with the Fund since that information, if released, would give an advantage to the Fund's competitors. In accordance with prior rulings of this office, we agree that the release of the names, addresses, and telephone numbers of the Fund's customers could give advantage to the Fund's competitors. The Fund therefore may withhold pursuant to article 5.76-3, § 2(b) of the Insurance Code these portions of the documents. However, as was the case in Open Records Letter No. 95-1453 (1995), the Fund must release the remaining portions of the requested information.<sup>2</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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo  
Assistant Attorney General  
Open Records Division

KHG/RWP/rho

Ref.: ID# 100584

Enclosures: Submitted documents

cc: Mr. Mike Townsend  
Financial Guardian of Texas, Inc.  
P.O. Box 4745  
Houston, Texas 77210-4745  
(w/o enclosures)

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<sup>2</sup>Although you also contend that information such as the requested classification codes and experience modifiers may be proprietary in nature and thus excepted from required public disclosure by section 552.110 of the Government Code, the withholding of the corresponding participant information obviates any such concern.