



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 28, 1997

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

OR97-0952

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# 105125.

The Comptroller of Public Accounts (the "Comptroller") received requests from three individuals for information related to state warrant records in the possession of the Comptroller. Specifically, we note that the first requestor asked for "payee names and addresses for [certain] warrant numbers listed;" the second requestor asked for the "payee names and description," on specific warrant numbers; and, the third requestor asked for "[c]ertain microfiche records now maintained by the Comptroller of Public Accounts," for the "current outstanding warrants" which contain the warrant number, date of issue, and the amount of the warrants. Certain information has been provided in response to the first two requests. However, you assert that the remaining information in response to the first two requests is excepted from disclosure under section 552.101 of the Government Code, which provides an exception for information that is confidential by law. You also contend that all microfiche records responsive to the third request are excepted from disclosure. We have considered the exception and arguments you have made and have reviewed the submitted records.

As preface to our discussion, we note that in Open Records Letter No. 96-1020 (1996), we addressed certain related matters. Therefore, we have enclosed a copy of the letter ruling for your review. In that ruling, we concluded that information related to certain types of warrants was made confidential by law and could not be released to the requestor.¹

¹In Open Records Letter No. 96-1020 (1996), we concluded that child support warrant information was confidential under section 231.108 of the Family Code, and AFDC warrant information was confidential

We will first address the first two requests for “payee” address and description information, and then reach the issue of the request for the warrant information on “microfiche.” You have explained to our office that “[a]ll requested information pertaining to warrants issued by the Comptroller’s office has been provided,” to the requestors. However, you contend that, with regard to warrants issued by other state agencies, the requestor should contact those agencies. You further state that your office cannot distinguish between the various types of warrants issued by the other state agencies. You say that, although the Comptroller can ascertain that the agencies have outstanding warrants, it cannot determine to what categories these warrants belong. It is the Comptroller’s position that “[you] are not able to make a determination as to confidentiality of the requested information originating with agencies other than the Comptroller’s office and believe that [the requestors] should seek the information from the issuing agency.” Therefore, you argue that the requestors should contact the agencies which drafted the warrants in order to afford those agencies the opportunity to make a determination regarding the confidentiality of the requested records.

In Open Records Letter No. 96-1020 (1996), we concluded that, since the Texas State Treasury (the “treasury”) could not determine the category and confidential nature of the warrants issued by other state agencies, the treasury must contact each agency and inquire as to the categories of requested warrant information. Likewise, in this ruling, to comply with the request, we conclude that the Comptroller’s office must contact the individual state agencies and make a determination as to the category and confidentiality of the requested warrant information.

We now address the Comptroller’s claim that it cannot segregate certain of the warrants that contain confidential information from warrants that do not contain confidential information. In response to the request for the warrant information on “microfiche,” the Comptroller contends that “we should not provide the outstanding warrant composite microfiche to [the requestor] because it contains information made confidential by law, which cannot be segregated from public information.” The information that you claim is confidential consists of a variety of data, which may include tax refund warrants, among other information. The amount of a tax refund warrant is confidential by law. Tax Code §§ 111.006, 171.206; *A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 680 (Tex. 1995).²

(Footnote continued)

under section 12.003 of the Human Resources Code. Additionally, we concluded that certain Worker’s Compensation Commission warrants were confidential if such warrants identified the employee filing the workers’ compensation claim. Open Records Decision No. 619 (1993).

²In *A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 680 (Tex. 1995), the court held that “the amounts of assessed deficiencies, refunds, or credits are derived from taxpayer-furnished information, and are thus confidential.” Therefore, we conclude that the Comptroller must withhold the amounts of the tax refund warrants under the Supreme Court’s decision in *A & T* as applied through section 552.101 of the Government Code.

You claim that the requested information that is confidential cannot be segregated from the non-confidential information. In *Industrial Found. of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), the court held:

The means of access to information in government records may be controlled by the determination of what records must be disclosed, insofar as the procedure must adequately protect information deemed confidential from improper disclosure.

Industrial Foundation, 540 S.W.2d at 687. Similarly, this office has frequently concluded that if public information is "inextricably intertwined" with information that may be withheld under the act, all of the information may be withheld. Attorney General Opinion JM-672 (1987); Open Records Decision Nos. 470 (1987), 393 (1983), 239 (1980), 174 (1977). Therefore, to the extent the confidential information, such as tax refund warrant amounts, cannot be segregated from other information in the microfiche records, the requested microfiche records must be withheld from disclosure.

We note, however, that pursuant to section 552.231 of the Government Code, if the requestor is willing to accept a paper copy or some other format, electronic or otherwise, of the composite microfiche warrant information with the confidential information redacted, then the Comptroller should release the redacted information. We assume that, in complying with subsection (b) of section 552.231, the Comptroller will include the services, costs, and time needed to contact the various agencies to determine the sources of funds or other appropriate information needed to segregate the requested information.³

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,



Sam Haddad
Assistant Attorney General
Open Records Division

³As we have held that the amounts of tax refund warrants are confidential, to the extent that the Comptroller cannot segregate the tax refund warrants from the other information on the composite microfiche, the Comptroller must withhold all warrant amounts.

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Ref.: ID# 105125

Enclosures: Submitted documents
Open Records Letter No. 96-1020 (1996)

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