



December 2, 1999

Ms. Mary Barrow Nichols  
General Counsel  
Texas Workers' Compensation Insurance Fund  
221 West 6<sup>th</sup> Street, Suite 300  
Austin, Texas 78701-3403

OR99-3465

Dear Ms. Nichols:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act chapter 552 of the Government Code. Your request was assigned ID# 128565.

The Texas Workers' Compensation Insurance Fund received a request for its policies regarding when a second opinion is necessary in spinal surgery. You assert that the requested information is excepted from required public disclosure based on section 552.101 of the Government Code in conjunction with section 2(b) of article 5.76-3 of the Insurance Code. That provision reads as follows:

(b) Except as otherwise provided by this subsection, the fund is subject to the open meetings law, Chapter 551, Government Code, and the open records law, Chapter 552, Government Code. The board may hold closed meetings to consider and 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 state that the requested information is

considered by the Fund to be proprietary information. The Fund's claims-handling procedures have assisted the Fund in maintaining an efficient and streamlined claims-handling practice; they thus reflect the Fund's efforts to control the costs of processing claims for workers' compensation benefits. The efficient processing of workers' compensation benefit claims has helped the Fund to keep its premium rates low and its service levels high, and thus maintain its competitive position in the workers' compensation insurance marketplace. If released, the Fund's claims-handling policies and procedures could be appropriated by competitors, who could then use the policies and procedures to try to undercut the Fund's position in the marketplace.

While you have explained the information's usefulness in improving the efficiency of the Fund's claims processing, you have not explained how the information would give a competitive advantage to the Fund's competitors, that is, how a competitor could use the information to undercut the Fund's marketplace position. Accordingly, we conclude that the Fund may not withhold the requested information from the requestor based on the section 2(b).

We are resolving this matter with this 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Kay H. Hastings  
Assistant Attorney General  
Open Records Division

KHH/jc

Ref.: ID# 128565

Encl. Submitted documents

cc: Mr. Craig A. Rogers  
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(w/o enclosures)