



September 17, 2001

Mr. Craig H. Smith  
Deputy General Counsel  
Texas Workers' Compensation Commission  
Southfield Building, MS-4D  
4000 South IH-35  
Austin, Texas 78704-7491

OR2001-4133

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 152014.

The Texas Workers' Compensation Commission (the "commission") received a request for the following information:

Manuals and policies in use from 1999 to present[, including] 1) A complete list of all agency, division, and section personnel and procedure manuals; 2) The most current agency personnel policy and procedure manual; [and] 3) Any and all personnel policies and procedures for Compliance and Practices Division and sections promulgated in any media.

[A]ny and all communications, electronic and written, from 1999 to the present regarding the transfer of Richard Wright and Sandy Guidry-Garcia to the Compliance and Practices Division; [and] correspondence from or to Gina Thurman, electronic or written, from 1999 to the present, regarding the position held by Richard Wright.

[E]lectronic versions of all programs written by compliance and practices from 1999 to the present.

You indicate that the commission has released information responsive to the request. You claim, however, that "a packet of statistical software application (SAS) programming used by the [commission] to capture information from our mainframe" does not constitute public information for purposes of chapter 552 of the Government Code. We have considered your arguments and have reviewed the documents you submitted.

In Open Records Decision No. 581 (1990), this office determined that certain computer-related information that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property, such as source codes, documentation information, and other computer programming, is not the kind of information that is made public under section 552.021 of the Government Code. *Id.* at 6. You characterize the contents of the submitted documents as "a tool used to capture information from our mainframe and manipulate the information for other [commission] purposes." You assert that these materials are "merely a computer-related information tool used to manipulate data." Having considered your arguments and carefully reviewed the submitted documents, we agree that they do not contain public information for purposes of section 552.002 of the Government Code. Therefore, these documents are not subject to disclosure under section 552.021 of the Government Code and need not be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

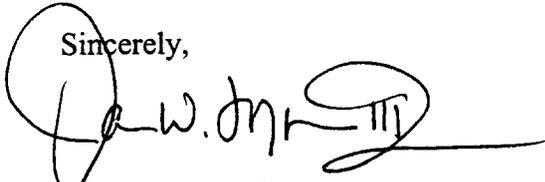
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris III", with a large, stylized flourish extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 152014

Enc: Submitted documents

c: Mr. Jim Branson  
Texas State Employees Union  
2700 South 1st Street, #C  
Austin, Texas 78704-5454  
(w/o enclosures)