



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2007

Ms. Cynthia Villarreal-Reyna
Legal Services Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2007-09538

Dear Ms. Villarreal-Reyna:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 285055.

The Texas Department of Insurance (the "department") received a request for all information included in a specified survey. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹ We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

¹We 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.

Code § 552.101. This section encompasses statutes such as section 405.004 of the Labor Code. Section 405.004 provides in relevant part:

(d) Except as provided by this subsection, the identity of an individual or entity selected to participate in a survey conducted by the [Worker's Compensation Research and Evaluation Group (the "group")] or who participates in such a survey is confidential and is not subject to public disclosure under Chapter 552, Government Code. This subsection does not prohibit the identification of a workers' compensation health care network in a report card issued under Section 1305.502, Insurance Code, provided that the report card may not identify any injured employee or other individual.

(e) A working paper, including all documentary or other information, prepared or maintained by the group in performing the group's duties under this chapter or other law to conduct an evaluation and prepare a report is excepted from the public disclosure requirements of Section 552.021, Government Code.

Labor Code § 405.004(d), (e). The group is part of the department and conducts studies and research pertaining to workers' compensation issues. *See id.* §§ 405.002, .0025. The department explains that a portion of the submitted information consists of the identifying information of employers who participated in a survey conducted by the group. The department further explains that this information is not part of a report card issued under section 1305.502 of the Insurance Code. Accordingly, we find that the employers' identifying information, which the department has marked, is confidential under section 405.004(d) of the Labor Code and must be withheld under section 552.101 of the Government Code. The department claims that the remaining submitted information consists of working papers prepared or maintained by the group in performing the group's duties under chapter 405 of the Labor Code. Therefore, we find that this information is confidential under section 405.004(e) of the Labor Code and must be withheld under section 552.101 of the Government Code.²

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

²As our ruling is dispositive, we need not address your remaining argument for this information.

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).

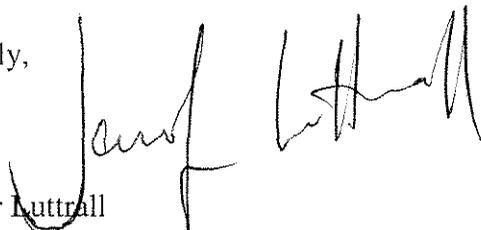
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/eeg

Ref: ID# 285055

Enc. Submitted documents

c: Mr. Stuart D. Colburn
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(w/o enclosures)