

ARTICLE 9.

Recordkeeping and Audits

§15405. Confidentiality.

(a) Financial information submitted to the Director or Manager to establish the solvency and worth of any self insurer, applicant to be self insured, third party administrator, or of a guarantor of a self insurer or applicant to be self insured shall be considered confidential in accordance with California Government Code Sections 6254 and 6255, and California Labor Code Section 3701.8(b)(5). Except as otherwise provided by law, such information shall not be disclosed to any other entity or person without an order from an appropriate court or administrative subpoena from an agency of the State, with the following exceptions:

~~(b) Information obtained from any audit regarding the nature, extent or financial liability of any specific self insurer's workers' compensation claims, together with any and all like information regarding a specific self insurer's claims or financial condition, shall be confidential and shall be used solely for the purpose of applying the provisions of these regulations.~~

~~(c) The list of open claims and list of claims reported to excess insurance carriers in the Self Insurers Annual Report and any claims logs submitted to the Manager shall be confidential.~~

~~(d)~~

(1) The Manager shall disclose any financial or claims information to the Self Insurers' Security Fund on any private self insurer whose liabilities have been turned over to the Fund pursuant to Labor Code Section 3701.5 3742 et seq., or that The Manager shall also disclose any financial information to the Self Insurers' Security Fund on any private self insurer who has filed bankruptcy, been unable failed to pay its their liabilities, or failed to post an increase in deposit due that would potentially put the Fund in jeopardy for the self insurer's liabilities.

(2) Pursuant to Labor Code Section 3701.8(b)(5) and Section 15220.1(d) of these regulations, the Manager may provide to the Self Insurers' Security Fund any financial information for any self insurer needed to determine and set deposit assessments for self insured employers participating in the alternative composite deposit program.

(3) Notwithstanding this section, the Board of Trustees of any private group self insurer currently or previously self insured pursuant to Labor Code Section 3700(b) and sections 15470 through 15500 of these regulations shall upon written request provide a copy of the group's most recent certified, independently audited financial statement to any affiliate employer self insured through the group.

(b) Self Insurers' Annual Reports filed with the Office of Self Insurance Plans pursuant to Labor Code Section 3702.2 and Section 15251 of these regulations shall be considered confidential in accordance with Government Code Sections 6254 and 6255 and Labor Code Section 3701.8(b)(5). Except as otherwise provided by law, information from the annual reports showing the extent of liabilities of self insured employers shall not be disclosed to any other entity or person without an order from an appropriate court or administrative subpoena from an agency of the State, with the following exceptions:

(1) The Manager shall provide copies of any Self insurer's Annual Reports and/or lists of open indemnity claims to the Self Insurers' Security Fund for any private self insurer whose liabilities have been turned over to the Fund pursuant to Labor Code Section 3701.5 3742 et seq. or that has filed bankruptcy, failed to pay its liabilities, or failed to post an increase in deposit due that would potentially put the Fund in jeopardy for the self insurer's liabilities.

(2) Pursuant to Labor Code Section 3701.8(b)(5) and Section 15220.1(d) of these regulations, the Manager may provide to the Self Insurers' Security Fund copies of any and all Self Insurer's Annual Reports needed to determine and set deposit assessments for self insured employers participating in the alternative composite deposit program, except that lists of open indemnity claims shall not be provided to the Security Fund for the sole purpose of setting deposit assessments.

(3) For public self insured employers and/or Joint Powers Authorities only, ~~portions~~ copies of and/or data from Self Insurers' Annual Reports ~~indicating aggregate numbers of claims and aggregate paid, incurred, and estimated future liabilities by year reported~~ may be provided to parties pursuant to Labor Code Section 3702.2(c) and Government Code Section 6253 upon written request to the Manager, except that no information identifying injured workers or dependents or related to specific claims may be provided.

(c) Except as otherwise provided by law, information obtained from any audit regarding the nature, extent or financial liability of any self insurer's workers' compensation claims, together with any and all specific information regarding any claims, shall not be disclosed to any other entity or person without an order from an appropriate court or administrative subpoena from an agency of the State, with the following exceptions:

(1) The Manager may provide copies of audit reports to the Self Insurers' Security Fund for any private self insurer whose liabilities have been turned over to the Fund pursuant to Labor Code Section 3742, et seq. or that has filed bankruptcy, failed to pay its liabilities, or failed to post an increase in deposit due that would potentially put the Fund in jeopardy for the self insurer's liabilities.

(2) The Manager may provide copies of any audit reports and/or Self Insurer's Annual Reports to the Division of Workers' Compensation in conjunction with any requests for audit and/or investigation by the Division of Workers' Compensation or Office of Self Insurance Plans.

~~(e) At the written request of the Chief of the Division of Workers' Compensation, Office of Benefits and Enforcement, the Manager shall provide a copy of any audit report to the Division of Workers' Compensation. The self-insured employer and/or administrator shall be notified of the release of the audit report to the Division of Workers' Compensation.~~

~~(f) Subject to the described conditions, the financial and audit information shall not be disclosed to any other department, entity or person without an order from an appropriate court or administrative subpoena from an agency of the State. The self-insured entity shall be promptly advised of the court order or subpoena by the Manager.~~

NOTE: Authority cited: Sections 54, 55, 3701.5, 3701.8(b)(5), 3702.2, and 3702.10, Labor Code. Sections 6253, 6254, and 6255, Government Code. Reference: Sections 59, 129, 3700, 3701.5, 3702.2, 3702.6, and and 3702.10, and 3742, Labor Code. Sections 6253, 6254, and 6255, Government Code.