

Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 8. Office of the Director
Subchapter 2. Administration of Self-insurance
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:

(1) The Manager shall disclose any financial 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, 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 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.~~ **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 statements to any affiliate employer self insured through the group.** Manager also may provide to the Self Insurers' Security Fund financial information, including actuarial reports, of any group self insurer, so that the Security Fund may determine the financial risk and stability of the group.

(4) 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, after the requestor signs a nondisclosure agreement, provide a copy of the group's ~~most recent~~ certified, independently audited financial statements, self insured group bylaws, actuarial reports, and other formational corporate documents to any affiliate employer, or potential 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 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, copies of and/or data from Self Insurers' Annual Reports 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.

(d) Except as otherwise provided by law, information obtained from actuarial reports ~~and group~~ filed by group self insurers 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: ~~The Manager may provide copies of actuarial reports to the Self Insurers' Security Fund.~~

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