



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 5, 1997

Mr. Douglas C. Brown
General Counsel
Office of the State Auditor
Two Commodore Plaza
206 East Ninth Street, Suite 1900
Austin, Texas 78701

OR97-1295

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107064.

The Office of the State Auditor (the "state auditor") received a request for the following information:

All draft audit reports produced in the course of your agency's audit, A Review of Controls Over Investment Practices at six Major State Investing Entities.

All correspondence between your auditors and University of Texas personnel regarding the drafts and the final report reviewing investments handled by UTIMCO, the University of Texas Investment Management Company.

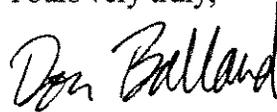
You explain that the completed audit report on this matter has been released. You claim, therefore, that the draft audit reports and the correspondence between the state auditor and the audited agency are excepted from required public disclosure by sections 552.111 and 552.116 of the Government Code. We have considered the exceptions you claim and have reviewed the sample of documents that you have submitted.¹

¹In reaching our conclusion here, we 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.

Section 552.116 of the Government Code excepts from disclosure “[a]n audit working paper of the state auditor.” In Open Records Decision No. 580 (1990), this office relied upon standards issued by the American Institute of Certified Public Accountants and the United States General Accounting Office in determining that the term “audit working paper” is a term of art used to describe specific types of records. You state that the audit report drafts and the correspondence are “audit working papers.” You argue that the documents include the evidence prepared or obtained by the auditor. You also claim that the documents contain the auditor’s conclusions or findings and reflect the auditor’s evidence which is “supported by sufficient, competent, and relevant evidence.” You further assert that the drafts and related correspondence exchanged with the audited agency is the “process of collection of evidence during the audit” and is the “process of investigation, examination, and decision-making.” Based upon your representations and arguments, we agree that records at issue are “audit working papers.” Open Records Decision No. 580 (1990) at 5-7. The requested records are excepted from disclosure under section 552.116.

Because we make a determination under section 552.116, we do not address your argument under section 552.111. We are resolving this matter with an 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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 107064

Enclosures: Submitted documents

cc: Ms. Mary Ann Roser
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(w/o enclosures)