



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 21, 1998

Ms. Susan A. Spataro  
County Auditor  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR98-0196

Dear Ms. Spataro:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your requests were assigned ID#s 111776, 113086, 113290.

The Travis County Auditor (the "auditor") received three requests for information relating to completed and pending audits and audit plans and procedures. You have released some of this information. However, you contend that three categories of documents (internal audit plans, risk assessment documents, and internal audit program procedures and tests) are excepted from disclosure under sections 552.108 and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

You contend that the submitted documents are excepted from disclosure under section 552.108 of the Government Code based on the reasoning in *A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 668 (Tex. 1995).<sup>1</sup> You argue that releasing the submitted documents would compromise the

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<sup>1</sup>Section 552.108 of the Government Code provides in pertinent part:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime; (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication . . . (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if: (1) release of the internal record or notation would interfere with law enforcement or prosecution; (2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication . . . .

auditor's law enforcement efforts. In *A & T Consultants*, the court held that the state comptroller could withhold the following information under section 552.108: the generation list dates and assignment dates for audits which have not been completed, the reasons for any audits, the audit method and group, and the assignment codes. *Id.* at 677-681. We agree that similar types of information held by the auditor are excepted from disclosure under section 552.108. We have marked the information that the auditor may withhold pursuant to section 552.108.

You also contend that section 552.111 of the Government Code protects the submitted documents. We will consider your section 552.111 claim only for those portions of the documents that are not excepted from disclosure under section 552.108. Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Section 552.111 does not, however, except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 (1993) at 4-5. Some of the information at issue under section 552.111 consists of the auditor's assessment of particular entities. This information is excepted from disclosure pursuant to section 552.111, and we have marked it accordingly. The auditor must release those portions of the submitted documents that are not protected by either section 552.108 or 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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID#s 111776, 113086, 113290

Enclosures: Marked documents

cc: Ms. Dana DeBeauvoir  
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(w/o enclosures)

The Honorable Bill Aleshire  
County Judge  
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