



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 31, 1998

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Building
125 East 11th Street
Austin, Texas 78701-2483

OR98-0856

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID#114531.

The Texas Department of Transportation (the "department") received a request for information concerning Management Directive Review SAT. 23. You state that the department will release to the requestor a copy of the final report on this matter. You assert that the supporting documents are work papers of the department's audit office. You assert that the supporting documents are excepted from required public disclosure under section 552.116 of the Government Code. You have submitted representative samples of the information the department seeks to withhold from disclosure.¹

Section 552.116 of the Government Code excepts from disclosure

an audit working paper or draft audit report of the state auditor or of another state agency or institution of higher education as defined by Section 61.003, Education Code.

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) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). 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

The legislation that enacted section 552.116 also defines the term "audit working paper" as

all documentary and other information prepared or maintained in conducting an audit or investigation, including all intra-agency and interagency communications relating to an audit or investigation and all draft reports or portions thereof.

Act of May 29, 1997, H.B. 2906, § 2, 75th Leg., R.S. (amending Gov't Code 321.001). An "audit" is defined as "1 a: a formal examination of an organization's or individual's accounts or financial situation b: the final report of an audit 2: a methodical examination and review," WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY (9th ed. 1989) and "to make an official systematic examination of (accounts), so as to ascertain accuracy," THE OXFORD ENGLISH DICTIONARY (2nd ed. 1989). Section 321.0136 of the Government Code defines "investigation" for purposes of chapter 321 as

an inquiry into specified acts or allegations of impropriety, malfeasance, or nonfeasance in the *obligation, expenditure, receipt, or use of state funds*, or into specified financial transactions or practices that may involve such impropriety, malfeasance, or nonfeasance.

Gov't Code § 321.0136 (emphasis added).

We have reviewed the submitted information. We do not believe that the information constitutes "audit working paper[s]" as contemplated in Government Code section 552.116. Accordingly, the department may not withhold the requested information based on section 552.116 of the Government Code.

We are resolving this matter with this 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 may 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,



Kay Hastings
Assistant Attorney General
Open Records Division

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Enclosures: Submitted documents

cc: Mr. Edward Earl Stephen
P.O. Box 29928
San Antonio, Texas 78284
(w/o enclosures)