



May 24, 1999

Ms. Margaret Hoffman  
Director, Environmental Law Division  
Texas Natural Resource Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087

OR99-1438

Dear Ms. Hoffman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124731.

The Texas Natural Resource Conservation Commission (the "commission") received a request for information relating to the El Paso Public Services Board ("PSB"). You state that the commission has made some of the requested information available to the requestor. You contend that the remaining information is excepted from disclosure pursuant to sections 552.111 and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed a representative sample of the documents at issue.<sup>1</sup>

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.

The legislation enacting 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

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<sup>1</sup>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.

interagency communications relating to an audit or investigation and all draft reports or portions thereof.

Act of May 29, 1997, 75<sup>th</sup> Leg., R.S., ch. 1122, § 2, 1997 Tex. Gen. Laws 4266, 4267 (amending Gov't Code 321.001).

You inform us that the submitted documents are a draft of the commission's audit of the PSB. You assert that the audit meets the criteria and objectives of an "effectiveness audit" as that term is defined in section 321.0134(a) of the Local Government Code. You further explain that the audit evaluates the PSB's compliance "with the requirements of the National Pretreatment Regulations (Title 30 Texas Administrative Code Chapter 315 which adopts Title 40 Code of Federal Regulations, Part 403 by reference)." We agree that the submitted documents are audit working papers of the commission. Therefore, the commission may withhold the documents from disclosure pursuant to section 552.116 of the Government Code.

Because we are able to resolve this matter under section 552.116, we do not address your section 552.111 claim. 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.

Sincerely,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 124731

encl. Submitted documents

cc: Mr. Erich Morales  
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221 N. Kansas, Suite 1900  
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(w/o enclosures)