



May 12, 2000

Mr. William L. Rentfro
Rentfro, Faulk & Blakemore, L.L.P.
185 E. Ruben M. Torres, Sr. Boulevard
Brownsville, Texas 78520-9136

OR2000-1856

Dear Mr. Rentfro:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135589.

The Brownsville Independent School District (the "district"), which you represent, received a written request for the letter that the district's deputy superintendent for financial operations sent to the Texas Education Agency (the "TEA") regarding an audit of the district. You contend that the requested information is excepted from disclosure under section 552.116 of the Government Code.

Section 552.116(a) excepts from required disclosure "[a]n audit working paper of the state auditor or the auditor of a state agency or institution of higher education as defined by section 61.003, Education Code[.]" You explain that the purpose of the district's letter was

to request the TEA to either conduct an external audit on behalf of the district or to recommend the selection of an outside audit firm. You failed to explain, however, whether the TEA ever commenced an audit of the district. Consequently, this office has no basis on which to conclude that the information at issue constitutes an "audit working paper of . . . the auditor of a state agency" for purposes of section 552.116(a). Furthermore, because the district is neither "the state auditor," "a state agency," nor an "institution of higher education," it is not otherwise apparent to this office how section 552.116(a) applies to the information at issue. We conclude, therefore, that you have not met your burden of establishing the applicability of this exception to the requested information. Accordingly, the district must release the requested information in its entirety.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/RWP/pr

Ref: ID# 135589

Encl. Submitted documents

cc: Ms. Catalina Garcia
3144 E. 19th
Brownsville, Texas 78521
(w/o enclosures)