



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 13, 2004

Ms. Ruth H. Soucy  
Manager and Legal Counsel  
Comptroller of Public Accounts  
P. O. Box 13528  
Austin, Texas 78711-3528

OR2004-3926

Dear Ms. Soucy

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 201555.

The Comptroller of Public Accounts (the "comptroller") received a request for the auditor's audit plan, the supervisor's workload review notes, and the RPC reviewer's and supervisor's reviewer notes for a specified audit representation. You state that you have provided the requestor with some of the requested information. You claim that the remaining requested information is excepted from disclosure under section 552.116 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.116 of the Government Code provides as follows:

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, or a municipality is excepted from [public disclosure]. If information in an audit working paper is also maintained in another record, that other record is not excepted from [public disclosure] by this section.

(b) In this section:

(1) 'Audit' means an audit authorized or required by a statute of this state or the United States and includes an investigation.

(2) 'Audit working paper' includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) intra-agency and interagency communications; and

(B) drafts of the audit report or portions of those drafts.

Gov't Code § 552.116. You state that the submitted documents consist of comments entered on the comptroller's internal Agency Work Manager system. You state that these documents are internal notations that were prepared by audit personnel in the course of conducting a tax audit under the authority of section 111.004 of the Tax Code. Based on your representations, we agree that the comptroller may withhold the submitted information pursuant to section 552.116 of the Government Code.

You ask this office to issue a previous determination allowing the comptroller to withhold comments entered into the comptroller's internal Agency Work Manager system that are prepared or maintained in conducting audits under section 552.116 of the Government Code. Having considered your request, we decide that this letter ruling shall serve as a previous determination under section 552.301(a) for such information.

This previous determination applies only to comments entered into the comptroller's internal Agency Work Manager system in conducting audits under the authority of section 111.004 of the Tax Code. Moreover, so long as the elements of law, fact and circumstances do not change so as to no longer support the findings set forth above, the comptroller need not ask for a decision from this office again with respect to the comments entered into the internal Agency Work Manager system in conducting audits under the authority of section 111.004 of the Tax Code requested of the comptroller. *See* Open Records Decision No. 673 at 7 (2001).

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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Sarah I. Swanson  
Assistant Attorney General  
Open Records Division

SIS/krl

Ref: ID# 201555

Enc. Submitted documents

c: Ms. Kelly Cody  
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The SALT Group  
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(w/o enclosures)