



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 23, 2009

Mr. David P. Backus
Underwood Attorneys and Counselors at Law
Attorney for Frenship Independent School District
P.O. Box 16197
Lubbock, Texas 79490

OR2009-05417

Dear Mr. Backus:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 340719.

The Frenship Independent School District (the "district"), which you represent, received a request for any documents to or from the U.S. Department of Labor (the "DOL") regarding claims of "wage and hour" violations. You claim the 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.

Initially, we note the requestor excluded home addresses and home telephone numbers from his request. Thus, any home addresses and home telephone numbers in the submitted information are not responsive to the present request for information and the district need not release this information to the requestor in response to this request.

Section 552.116 of the Government Code provides:

- (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, a municipality, a school district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a

public school employee, is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 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, the charter or an ordinance of a municipality, an order of the commissioners court of a county, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) 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.

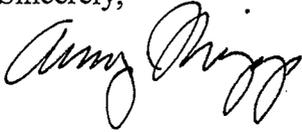
Gov't Code § 552.116. You state that the submitted information consists of audit working papers prepared and maintained by the district in conjunction with an audit of the district's compliance with the Fair Labor Standards Act being conducted by the DOL. You inform us that the DOL requested the district perform a self-audit, and that the district's audit is authorized by section 211 of title 29 of the United States Code. *See* 29 U.S.C. § 211(a) (DOL may investigate and collect data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this chapter), (b) (DOL may utilize the services of State and local agencies). Based on your arguments and our review, we agree that the submitted information constitutes audit working papers which may be withheld under section 552.116 of the Government Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free,

at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Shipp". The signature is fluid and cursive, with the first name "Amy" and the last name "Shipp" clearly distinguishable.

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 340719

Enc. Submitted documents

cc: Requestor
(w/o enclosures)