



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 25, 2009

Ms. Sharon Alexander
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2009-08785

Dear Ms. Alexander:

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# 347447.

The Texas Department of Transportation (the "department") received a request for eight categories of information pertaining to the requestor's employment, including a specified management directed review. You state you have released some of the requested information to the requestor. You claim that the submitted management directed review audit working papers are excepted from disclosure under section 552.116 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we address your assertion that the department is not required to answer factual questions. A governmental body is not required to answer factual questions, conduct legal research, or create new information in response to a request. *See* Open Records Decision

¹We 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.

Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request for information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). In this instance, you assert you have made a good faith effort to relate the request to information in the department's possession and have requested clarification regarding the remaining categories of the request. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request). Accordingly, should the requestor respond to the request for clarification, the department must seek a ruling from this office before withholding any responsive information from him. *See* generally Open Records Decision No. 633 (1999) (providing for tolling of ten-business-day deadline to request attorney general decision while governmental body awaits clarification).

We now address your argument under section 552.116 of the Government Code for the submitted responsive information. Section 552.116 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

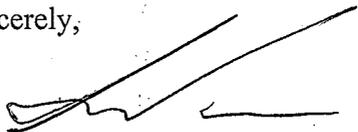
(B) drafts of the audit report or portions of those drafts.

Gov't Code § 552.116. You state that the submitted information consists of working papers created or used during the course of an internal audit authorized under sections 321.0131-.0134 of the Government Code, section 321.0136 of the Government Code, and chapter 2102 of the Government Code. Based on your representations and our review, we agree that the submitted information constitutes audit working papers under section 552.116. Accordingly, the department may withhold the submitted information pursuant to 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 347447

Enc. Submitted documents

c: Requestor
(w/o enclosures)