



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2009

Mr. Hans P. Graff
Assistant General Counsel
Houston Independent School District
4400 West 18th Street
Houston, Texas 77092-8501

OR2009-12932

Dear Mr. Graff:

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# 354993.

The Houston Independent School District (the "district") received a request for audit working papers pertaining to an investigation involving the requestor. We understand you have released some information to the requestor. You claim 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. We also have considered the comments that we received from the requestor.¹

Initially, we address the requestor's assertion that the district failed to meet its procedural obligations under the Act. Specifically, the requestor asserts that she made a prior request for the information at issue on June 5, 2009, and that the district failed to either provide the requested information or submit the request to this office for a decision within the required ten business days. *See* Gov't Code § 552.301(b) (a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request). A governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public and must be released. *Id.* § 552.302.

¹*See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

In her June 5, 2009, request, the requestor sought correspondence and documents detailing the following: who initiated a specified investigation; what warranted the investigation; why there was a need for an investigation; and who verified information and with what authorization. The district responded to this initial request by making responsive information available to the requestor. On June 23, 2009, the requestor made a subsequent request for "working papers for the [a]udit conducted on me." The requestor asserts that the audit working papers at issue in the present request were responsive to her June 5th request. We note that a governmental body must make a good-faith effort to relate a request for information to responsive information that is within the governmental body's possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). Upon review, we conclude that the submitted audit working papers were not responsive to the requestor's initial request.

The district received the present request for information on June 23, 2009, and the district informs us it was closed on July 3, 2009. Accordingly, the district's deadline to respond to the requestor pursuant to section 552.301(d) was July 8, 2009. The district requested a ruling from this office, stating the exceptions to disclosure that apply to the requested information, on July 8, 2009, within ten business days of receiving the written request for information. Thus, we conclude that the district complied with its obligations under the Act, and accordingly we will address its argument against disclosure of the submitted information.

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 [required public disclosure under the Act]. If information in an audit working paper is also maintained in another record, that other record is not excepted from [required 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, 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:

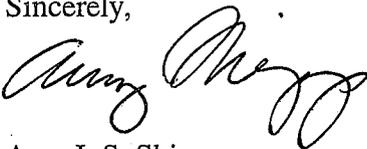
- (A) intra-agency and interagency communications; and
- (B) drafts of the audit report or portions of those drafts.

Gov't Code § 552.116. You inform this office that the district's Board of Trustees created the Office of Inspector General to oversee and coordinate internal audits and investigations. You state the submitted information consists of audit working papers of an audit conducted by the district's Office of Inspector General. Based on your representations and our review, we agree the submitted information consists of audit working papers as defined in section 552.116(2). Accordingly, the district may withhold this 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, toll free, at (888) 672-6787.

Sincerely,



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

ALS/rl

Ref: ID# 354993

Enc. Submitted documents

cc: Requestor
(w/o enclosures)