



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 10, 2011

Mr. Warren M.S. Ernst
Chief of the General Counsel Division
City of Dallas
City Hall
Dallas, Texas 75201

OR2011-06486

Dear Mr. Ernst:

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# 416991.

The City of Dallas (the "city") received three requests from the same requestor for all communications from a specified time period regarding the requestor's reports to the city auditor's office and all communications the city auditor's office has had during a specified time period regarding the issue underlying the requestor's reports; all documents in which any city personnel described in the violations are mentioned; the personal certifications or licenses for three named individuals; all information on persons or organizations with influence or authority over the city auditor's office; written statements from a named individual; and any other relevant information.¹ You state the city does not possess the requested written statements.² You state you have released some of the requested information. You claim the submitted information is excepted from disclosure under

¹You inform us the city sought and received clarification regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²We note the Act does not require a governmental body to release information that did not exist when a request for information was received, create responsive information, or obtain information that is not held by or on behalf of the governmental body. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

sections 552.107 and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.³ We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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 the information at issue consists of audit working papers concerning a complaint received by the city auditor's office. You inform us the audit was

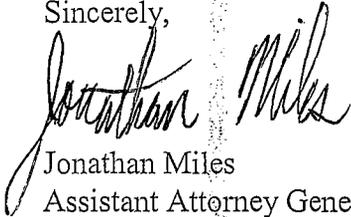
³We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

conducted pursuant to city council resolution number 98-0751 and Chapter IX, Section 3, of the city charter. Based on your representations and our review, we agree the information at issue constitutes audit working papers under section 552.116. Thus, the city may withhold the information at issue pursuant to section 552.116 of the Government Code. As our ruling is dispositive, we need not address your remaining argument.

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 416991

Enc. Submitted documents

c: Requestor
(w/o enclosures)