



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 1, 2011

Mr. Robert K. Nordhaus
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2011-17745

Dear Mr. Nordhaus:

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# 437702 (File No: W003250-091211).

The City of San Antonio (the "city") received a request for records that document "sick leave paid" for specified fiscal years, specifically for the top 10 city fire department employees that had the most hours and used them before retiring. You claim that the submitted 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, a municipality, a school district, a hospital 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]. 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, the bylaws adopted by or other action of the governing body of a hospital district, 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.

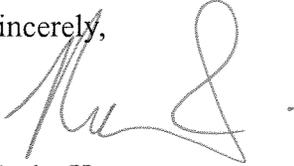
Act of May 29, 2011, 82nd Leg., R.S., H.B. 2947, §§ 1, 2 (to be codified as an amendment to Gov't Code § 552.116(a), (b)(1)). You contend the submitted information consists of audit working papers protected by section 552.116. You state the City Charter creates the Office of the City Auditor, which is charged with conducting financial, fiscal compliance, and financial procedure audits of all city departments, offices, agencies, and programs. You state the audit at issue was prepared pursuant to an audit plan approved by the city council by adoption of Ordinance No. 2010-11-18-0990. You state the final version of the audit has been made available to the public. Based on your representations and our review of the information at issue, we find the submitted information consists of audit working papers for purposes of section 552.116(b)(2) of the Government Code. We therefore conclude the city may withhold the submitted information 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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nneka Kanu', with a small flourish at the end.

Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 437702

Enc. Submitted documents

cc: Requestor
(w/o enclosures)