



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 23, 2013

Ms. Angie A. Welborn
Senior Legal Counsel
State Auditor's Office
P.O. Box 12067
Austin, Texas 78711-2067

OR2013-16449

Dear Ms. Welborn:

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# 500002.

The State Auditor's Office (the "SAO") received a request for information pertaining to a specified hotline complaint. You do not take a position as to whether the submitted information is excepted from disclosure under the Act. However, you state the SAO notified the Department of Motor Vehicles (the "department") of the SAO's receipt of the request for information and of the department's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received correspondence from the department objecting to the release of the submitted information. *Id.* We have considered the claimed exception 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 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, the bylaws adopted by or other action of the governing board 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:

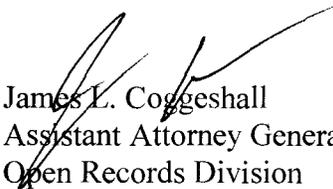
- (A) intra-agency and interagency communications; and
- (B) drafts of the audit report or portions of those drafts.

Id. § 552.116. The information at issue reveals the SAO received a complaint alleging fraud, waste, or abuse by the department, and the SAO asked the department to respond to that complaint. *See generally id.* §§ 321.0136, .022, .031 (authority of Special Investigations Unit of the SAO to investigate fraud, waste, or abuse). The department informs us, as a result of the complaint, its Internal Audit Division conducted an investigation of the complaint under the authority of the Texas Internal Auditing Act, chapter 2102 of the Government Code, and in compliance with its Internal Audit Plan and Internal Audit Charter. *See id.* §§ 2102.003 (defining types of audits), .005 (requiring state agencies to conduct internal audits), .007 (relating to duties of internal auditor). The submitted information is the department's response to the SAO regarding that complaint. The department asserts the submitted information is a communication prepared by the department in conducting an investigation authorized under chapter 2102 and, thus, is an audit working paper for purposes of section 552.116. However, upon review, we find the department has not established the submitted information, which was provided to the SAO by the department after completion of the department's audit, constitutes an audit working paper of the department for purposes of section 552.116. Therefore, the submitted information is not excepted from release under section 552.116 of the Government Code and the SAO must release it to the requestor.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 500002

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Sarah I. Swanson
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Texas Department of Motor Vehicles
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(w/o enclosures)