



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2013

Ms. Sarah I. Swanson
Associate General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

OR2013-18022

Dear Ms. Swanson:

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# 502688.

The Texas Department of Motor Vehicles (the "department") received a request for four specified complaints received by the department from the State Auditor's Office (the "SAO") hotline. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered the requestor's comments. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested 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 complaints alleging fraud, waste, or abuse by the department, and the SAO asked the department to respond to the complaints with written responses, following further review and/or possible further action by the department. *See generally id.* §§ 321.0136, .022, .013 (authority of Special Investigations Unit of the SAO to investigate fraud, waste, or abuse). You inform us, as a result of complaints received from the SAO, the department's Internal Audit Division conducts investigations of the complaints 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 consists of correspondence from the SAO to the department, notifying the department of the complaints and requesting department investigation, and providing the department with copies of the complaints at issue. The department explains the information at issue does not consist of final audit reports that otherwise would be publicly available. The department asserts the submitted information constitutes communications utilized and maintained by the department in conducting an investigation authorized by chapter 2102, and are therefore audit working papers for purposes of section 552.116. Based on these representations, and our review, we agreed the submitted information constitutes audit

working papers. Accordingly, the department may withhold the submitted information under section 552.116 of the Government Code.¹

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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 502688

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining argument against disclosure.