



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 13, 2013

Mr. Robert Martinez  
Director  
Environmental Law Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

OR2013-19771

Dear Mr. Martinez:

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# 505484 (TCEQ PIR No. 13-13431).

The Texas Commission on Environmental Quality (the "commission") received a request for financial statements that Water Exploration Company sent to a named individual. The commission claims the requested information is excepted from disclosure under section 552.116 of the Government Code.<sup>1</sup> 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

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<sup>1</sup>Although you also raise section 552.101 of the Government Code, you have not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume the commission no longer asserts this exception. *See* Gov't Code §§ 552.301, 552.302.

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.

Gov't Code § 552.116. You state the information at issue consists of a business plan that the Water Exploration Company submitted to the commission in its application to obtain a public water system ("PWS") number. You explain such information is reviewed by commission staff to determine whether an applicant has the financial capability necessary to ensure the PWS will be operated in accordance with applicable rules and statutes. *See* Health & Safety Code § 341.0315(a) (commission shall ensure public drinking water supply system supply safe drinking water in adequate quantities, are financially stable, and are technically sound). You explain an auditor for the commission reviewed the submitted information to determine whether the applicant met the financial requirement under section 341.0315 of the Health and Safety Code. *See id.* § 341.0315(a)(2). You assert the submitted information is maintained by the auditor at issue as part of an audit authorized or required under section 341.0315. *See id.* § 341.0315(a), (d). Based on your representations and our review, we agree the submitted information constitutes audit working papers that the commission may withhold pursuant to section 552.116(a) 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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# 505484

Enc. Submitted documents

c: Requestor  
(w/o enclosures)