



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2014

Ms. Janet L. Kellogg
Assistant City Attorney
Legal Department
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2014-11274

Dear Ms. Kellogg:

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# 527535 (City# 301; 312).

The City of Corpus Christi (the "city") received a request for e-mails, documents, appointment schedules, phone records during a specified period, and presentations concerning MGT America.¹ You state the city will release some information to the requestor. You argue the submitted information is excepted from disclosure under sections 552.107, 552.111, and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information consists of an invoice related to the expenditure of public funds. This information is subject to section 552.022(a)(3) of the Government Code, and it may not be withheld under the Act unless "expressly confidential under other law." Gov't Code § 552.022(a)(3). Section 552.116 does not make information confidential. *See id.* § 552.116; *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Accordingly, the city may not withhold the invoice,

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

which we marked, under section 552.116 of the Government Code. As you raise no other exceptions for this information, the city must release it.

We turn next to the remaining information not subject to section 552.022. 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, 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 [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 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.

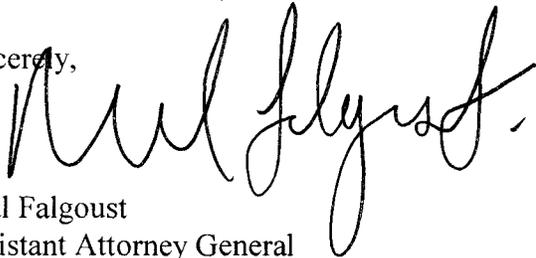
Gov't Code § 552.116. You state the submitted information consists of documents and communications related to a performance audit of the city's fire department. *See* Open Records Decision No. 580 (1990). You explain the city council authorized this audit pursuant to Article II, Section 17 of the city's charter, which gives it the power to inquire about the official conduct of any city department. You further explain the city manager, acting under the authority delegated to him by the city council, hired a consultant to "provide an assessment of the efficiency and effectiveness of the [city's] Fire Department." You state

the performance audit examined apparatus maintenance, emergency response, and whether the fire department is achieving standards established by the Texas Legislature. Based on these representations and our review, we agree the remaining information constitutes audit working papers and the city may withhold it under section 552.116 of the Government Code.² The city must release the invoice we marked under section 552.022 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, 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/som

Ref: ID# 527535

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we do not consider your remaining claimed exceptions.