



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 16, 1998

Ms. Sandra C. Joseph
Open Records/Disclosure Officer
Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78774-0100

OR98-2212

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117317.

The Comptroller of Public Accounts (the "comptroller") received a request for the spreadsheets showing the raw data collected to prepare the comptroller's publication, CURRENT AND FUTURE NEEDS OF TEXAS PUBLIC SCHOOL DISTRICTS. You claim that the requested information is excepted from required public disclosure by section 552.116 of the Government Code. You explain that the comptroller "conducted an investigation into the current and future needs of Texas public schools under the comptroller's authority to conduct performance reviews of school districts." Gov't Code § 403.020 (comptroller may periodically review effectiveness and efficiency of budgets and operations of school districts). You state that the requested records consist of responses to the comptroller's survey of school districts. The raw data responses were used to prepare the aggregate results for publication. You claim that the raw data responses constitute protected records under section 552.116 because the information is maintained in conducting an investigation. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.116 of the Government Code excepts from disclosure

an audit working paper or draft audit report of the state auditor or of another state agency or institution of higher education as defined by Section 61.003, Education Code.

The legislation enacting section 552.116 also defines the term "audit working paper" as

all documentary and other information prepared or maintained in conducting an audit or investigation, including all intra-agency and interagency communications relating to an audit or investigation and all draft reports or portions thereof.

Act of May 29, 1997, 75th Leg., R.S., ch. 1122, § 2, 1997 Tex. Gen. Laws 4266, 4267 (amending Gov't Code 321.001). An "audit" is defined as "1 a: a formal examination of an organization's or individual's accounts or financial situation, b: the final report of an audit 2: a methodical examination and review," WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY (9th ed. 1989) and "to make an official systematic examination of (accounts), so as to ascertain accuracy," THE OXFORD ENGLISH DICTIONARY (2nd ed. 1989). Section 321.0136 of the Government Code defines "investigation" for purposes of chapter 321 as

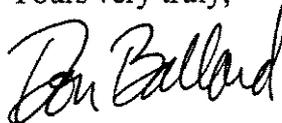
an inquiry into specified acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt, or use of state funds, or into specified financial transactions or practices that may involve such impropriety, malfeasance, or nonfeasance.

Gov't Code § 321.0136.

We have reviewed the submitted information. We do not believe that the information constitutes "audit working paper[s]" as contemplated in Government Code section 552.116 or section 321.001. See Gov't Code §§ 321.0131-.016 (defining state audits and investigations). Accordingly, the comptroller may not withhold the requested information based on section 552.116 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/nc

Ref: ID# 117317

Enclosures: Submitted documents

cc: Mr. Michael McNamara
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(w/o enclosures)