



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 6, 2007

Ms. Tammye Curtis-Jones  
Associate General Counsel  
Texas Southern University  
3100 Cleburne Avenue  
Houston, Texas 77004

OR2007-08510

Dear Ms. Curtis-Jones:

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# 284360.

Texas Southern University (the "university") received a request for "any recordings and transcripts from an April 27, 2007, meeting between [the university] and Deloitte & Touche." You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.116 of the Government Code. We have considered the exceptions you claim 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, or a joint board operating under Section 22.074, Transportation Code, is excepted from [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, 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. A governmental body that invokes section 552.116 must demonstrate that the audit working papers are from an audit authorized or required by statute by identifying the applicable statute. The university explains the audit is being conducted pursuant to chapter 2102 of the Government Code. Section 2102.005 provides

A state agency shall conduct a program of internal auditing that includes:

(2) periodic audits of the agency's major systems and controls, including:

(A) accounting systems and controls;

(B) administrative systems and controls; and

(C) electronic data processing systems and controls.

Gov't Code § 2102.005. You also state that the audit was authorized under section 321.020 of the Government Code. Section 321.020 authorizes a private auditor to audit a state agency if (1) there is a delegation of authority from the state auditor, (2) the state auditor has received the scope of the audit for review and comment, and (3) the private auditor was obtained through a competitive bidding process. *See id.* § 321.020(a). You inform us that the elements in section 321.020(a) of the Government Code were met and that the requested information is information that was "prepared or maintained in conducting an audit or preparing an audit report, including intra-agency and/or inter-agency communications." After reviewing the university's arguments and the submitted information, we agree that Exhibit B consists of an audit working paper excepted from disclosure under section 552.116 of the Government Code. Although you marked Exhibit C as being excepted under

sections 552.101 and 552.116, Exhibit C is not responsive to the request and this ruling does not address it. Because section 552.116 is dispositive, we do not address your section 552.101 assertion.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

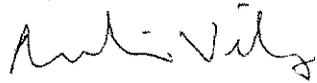
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/eeg

Ref: ID# 284360

Enc. Submitted documents

c: Mr. Matthew Tresaugue  
Houston Chronicle  
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(w/o enclosures)