



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 5, 2009

Mr. Matthew Tepper  
McCreary Veselka Bragg & Allen, P.C.  
700 Jeffrey Way, Suite 100  
Round Rock, Texas 78665

OR2009-07752

Dear Mr. Tepper:

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# 346471.

The Calhoun County Appraisal District (the "district"), which you represent, received a request for the preliminary appraisal standards review and related documents. The district states it has no related documents and claims the draft audit report is excepted from disclosure under section 552.116 of the Government Code. We have considered the district's exception and reviewed the submitted information.

Section 552.116 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, 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, 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. The district contends the draft report is an audit working paper prepared by the Texas Comptroller of Public Accounts (the "comptroller") as part of an audit authorized under section 5.102 of the Tax Code. *See* Tax Code § 5.102(a) (regarding comptroller's authority to review the appraisal standards, procedures, and methodology used by specified appraisal districts to determine compliance with generally accepted appraisal standards and practices); *see also* Gov't Code § 403.302(1) (requiring comptroller to conduct an appraisal standards review as provided by section 5.102 of the Tax Code of each appraisal district that appraises property for certain school districts). However, section 552.116 is intended to protect the auditor's interests. Here, the comptroller is the auditor, and the information is maintained by the district, the auditee. As the auditee, the district may not assert section 552.116 to protect its own interest in withholding the information. The district relies on Open Records Letter No. 2005-09205 (2005) to withhold the information under section 552.116. However, in that decision, we concluded the comptroller may withhold the draft audit report related to its audit of the Wharton County Appraisal District under section 552.116 because the comptroller conducted the audit. Accordingly, section 552.116 is inapplicable here and the district must release the information.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php),

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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 346471

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)