



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 1, 2010

Mr. Mark Adams
Office of the General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2010-02999

Dear Mr. Adams:

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# 374399.

The Office of the Governor (the "OOG") received a request for four categories of information pertaining to specified counties and a specified grant program during fiscal years 2008 and 2009, including applications for funds, grant budgets, grant allocations, documents submitted by grant recipients, documents pertaining to onsite or remote grant auditing or monitoring, as well as the total allocations made during those fiscal years for specified programs.¹ You state the OOG is releasing some of the responsive information. You claim that the submitted information is excepted from disclosure under

¹You inform our office the OOG received the initial request for information on November 4, 2009. You state that on November 10, 2009, the OOG provided the requestor with an estimate of charges and required a deposit. *See* Gov't Code §§ 552.2615 (providing governmental body shall provide requestor with estimate of charges if charges exceed \$40); .263(a) (providing governmental body may require a deposit or bond for payment of anticipated costs if the governmental body has provided the requestor with the required written itemized statement detailing the estimated charge for providing the copy and if the charge is estimated to exceed \$100). You also inform us the requestor modified her request on November 23, 2009 and the OOG sent a revised estimate of charges, which also required a deposit, on December 2, 2009. Finally, you state the OOG received a deposit from the requestor on January 11, 2010. Accordingly, the request is considered received on January 11, 2010. *See id.* § 552.263(e) (providing that for purposes of subchapters F and G of Act, request for copy of public information is considered to have been received by governmental body on date governmental body receives deposit or bond for payment of anticipated costs).

sections 552.101, 552.111, 552.116, and 552.151 of the Government Code.² 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, 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. You explain that the OOG's Criminal Justice Division (the "CJD") is authorized by state law to administer certain grants for law enforcement purposes. *See id.* § 772.006(a)(2) (CJD administers the criminal justice planning fund). You further explain that the CJD is required to monitor grantees who receive these grant funds. *See id.* § 772.006(a)(8) (CJD monitors and evaluates programs and projects funded under this section); *see also* 1 T.A.C. § 3.2601(a) (CJD monitors grantees' activities to ensure grant

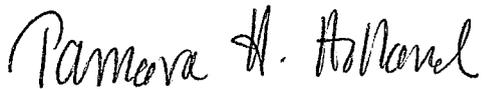
²You inform our office that the OOG observed a holiday and a skeleton crew day on January 18 and 19, 2010.

funds used for authorized purposes and grantees achieve grant purposes). You state that the required monitoring includes formal audits. *See id.* § 3.2601(b) (monitoring program may consist of formal audits, monitoring reviews, and technical assistance). You explain that the submitted information consists of working papers that were compiled by the OOG's internal auditors in the CJD. You note that Exhibits B through E consist of working papers from completed audits, and the final reports of those audits have been released. You also note that Exhibits F through G consist of working papers of ongoing audits, and the final reports of those audits will be made available to the public upon completion. Based on your arguments and our review, we agree that the submitted information consists of audit working papers that the OOG may withhold under section 552.116 of the Government Code.³

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, 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, toll free at (888) 672-6787.

Sincerely,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 374399

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address your remaining arguments.