



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 13, 2011

Mr. Warren M.S. Ernst  
Chief of the General Counsel Division  
City of Dallas  
1500 Marilla Street, Room 7BN  
Dallas, Texas 75201

OR2011-18275

Dear Mr. Ernst:

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# 438709.

The City of Dallas (the "city") received two requests for information "concerning an audit of the City of Dallas Sanitation Department or any division of the Sanitation Department, such as the McCommas Bluff Landfill, transfer stations, etc." that occurred between January 2010 and present day.<sup>1</sup> You state some of the requested information will be released to the requestor. You claim that the submitted information is excepted from disclosure under section 552.116 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>3</sup>

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<sup>1</sup>The city received two requests from the same requestor on September 23, 2011.

<sup>2</sup>Although you initially raised sections 552.107 and 552.111 of the Government Code, you have not submitted any arguments explaining how these exceptions apply to the submitted information. Therefore, we assume you have withdrawn these exceptions. See Gov't Code §§ 552.301, .302.

<sup>3</sup>We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

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, 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.

Act of May 29, 2011, 82nd Leg., R.S., H.B. 2947, §§ 1, 2 (to be codified as amendment to Gov't Code § 552.116(a), (b)(1)); Gov't Code § 552.116(b)(2). You state the submitted information consists of audit working papers concerning "various performance audits related to the Sanitation Department performed under the supervision of audit managers during the time period identified in the request." You inform us the performance audits were conducted pursuant to Chapter IX, Section 3(2) of the city charter and city council resolution numbers 79-0723, 90-4027, and 05-3305. Based on your representations and our review, we agree the submitted information constitutes audit working papers under section 552.116.

Thus, the city may withhold the submitted information pursuant to section 552.116 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.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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Sean Opperman". The signature is written in a cursive, flowing style.

Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/dls

Ref: ID# 438709

Enc. Submitted documents

c: Requestor  
(w/o enclosures)