



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 19, 2013

Mr. Jaime J. Munoz
For the La Joya Independent School District
Law Office of Jaime J. Munoz
P.O. Box 47
San Juan, Texas 78589

OR2013-02739

Dear Mr. Munoz:

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# 480348.

The La Joya Independent School District (the "district"), which you represent, received a request for all reports submitted to the district's board of trustees by the Office of the Internal Auditor for a specified time period. You claim the submitted information is excepted from disclosure under section 552.116 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted information contains a completed audit report, which we have marked, subject to section 552.022(a)(1). The district must release the

completed audit report pursuant to section 552.022(a)(1) unless it is excepted from disclosure under section 552.108 of the Government Code or is expressly made confidential under the Act or other law. *See id.* § 552.022(a)(1). Although you assert this information is excepted from disclosure under section 552.116 of the Government Code, this section is discretionary and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1993) (waiver of discretionary exceptions). As such, section 552.116 does not make information confidential under the Act. Therefore, the completed audit report we have marked may not be withheld under section 552.116. However, we will consider your argument under section 552.116 for the remaining information not subject to section 552.022.

Section 552.116 of the Government Code provides the following:

(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 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, 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.

Gov't Code § 552.116. You state the remaining information consists of audit working papers that were prepared or maintained by the district's internal auditor in conducting an audit authorized by section 11.170 of the Education Code and the district's board of trustees. *See* Educ. Code § 11.170 (providing district's board of trustees may select an internal auditor who reports directly to the board). Based on your representations and our review, we agree the remaining information consists of audit working papers for purposes of section 552.116. Therefore, the district may withhold the information not subject to section 552.022(a)(1) under section 552.116 of the Government Code. As no other exceptions to disclosure are raised for the remaining information, it must be released.

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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/eb

Ref: ID# 480348

Enc. Submitted documents

c: Requestor
(w/o enclosures)