



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 24, 2013

Mr. David D. Menchaca
Assistant General Counsel
Open Records Section
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2013-08703

Dear Mr. Menchaca:

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# 488426 (Comptroller ID# 9010892315).

The Comptroller of Public Accounts (the "comptroller's office") received a request for information pertaining to the audit of the company hired by the City of Richardson (the "city") to manage its municipal golf course.¹ You state the comptroller's office is withholding audit working papers and Audit Work Manager comments subject to section 552.116 of the Government Code pursuant to the previous determinations issued to the comptroller in Open Records Letter Nos. 2007-10491 (2007) and 2004-3926 (2004), respectively. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You claim portions of the submitted information are excepted from disclosure under

¹You state, and provide documentation showing, the comptroller received clarification of the request. *See* Gov't Code § 522.222(b) (stating if information requested is unclear or large amount has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

You claim Exhibit I and portions of Exhibits J and K are confidential under section 111.006(a)(2) of the Tax Code in conjunction with section 552.101 of the Government Code. Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information made confidential by other statutes. Section 111.006(a)(2) provides that “information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer’s books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer” is confidential. Tax Code § 111.006(a)(2).

The supreme court considered the applicability of section 111.006 of the Tax Code in *A&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668 (Tex. 1995), stating:

The Tax Code prevents the disclosure of data “obtained” or “derived” from a taxpayer Confidentiality under the Tax Code thus turns on the identity of the source of the information. It makes confidential the information obtained or derived from *taxpayers*.

Id. at 676 (citations omitted) (emphasis in original). You state the information at issue was obtained by the comptroller’s office from a taxpayer in the course of an examination of the taxpayer. Based on our review of the information at issue and *A & T Consultants*, we conclude Exhibit I and the information you have marked in Exhibits J and K are confidential under section 111.006 of the Tax Code and must be withheld under section 552.101 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

²We assume the “representative samples” of records submitted to this office are 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.

³As our ruling for this information is dispositive, we need not address your remaining arguments against its disclosure.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 488426

Enc. Submitted documents

c: Requestor
(w/o enclosures)