



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 13, 2014

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

OR2014-08120

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# 522562 (Comptroller ID# 9969156018).

The Texas Comptroller of Public Accounts (the "comptroller") received a request for copies of policies and guidelines related to the comptroller's records retention obligations and nine categories of information related to a specified audit, excluding specified information.¹ You state you will release some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.² We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹We note the comptroller sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

²We assume the "representative sample" of records 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 that submitted to this office.

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.

Id. § 552.116. You state Exhibits E through H consist of audit working papers that were prepared or maintained by the comptroller in conducting an audit. You also explain the audit is authorized by section 74.702 of the Property Code. *See* Prop. Code § 74.702 (regarding comptroller's authority to examine records for purpose of enforcing chapter 74 of the Property Code). Based on your representations and our review of the information at issue, we agree Exhibits E through H constitute audit working papers and the comptroller may withhold this information under section 552.116 of the Government Code.³

You ask this office to issue a previous determination permitting the comptroller to withhold audit working papers created or maintained during the course of an unclaimed property audit

³As our ruling is dispositive, we need not address your remaining argument against disclosure.

conducted under the authority of section 74.702 of the Property Code from the public on the basis of section 552.116 of the Government Code without seeking a ruling from this office. See Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us. Therefore, the comptroller may not rely upon this ruling as a previous determination regarding any other records 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bhf

Ref: ID# 522562

Enc. Submitted documents

c: Requestor
(w/o enclosures)