



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 8, 2015

Ms. Marie Rovira
Counsel for the Town of Addison
Messer, Rockefeller & Fort, P.L.L.C.
6351 Preston Road, Suite 350
Frisco, Texas 75034

OR2015-11147

Dear Ms. Rovira:

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# 566251.

The Town of Addison (the "town"), which you represent, received a request for reports, correspondence, and e-mails between a named consultant hired by the town and certain town officials and employees during a specified time period.¹ You state the town has released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.107, 552.111, 552.116, and 552.137 of the Government Code and privileged under rule 503 of the Texas Rules of Evidence.² We have considered the submitted arguments and reviewed the submitted representative sample of information.³

¹You state the town sought and received clarification of the information requested. Additionally, you state the requestor further modified her request in response to a cost estimate. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad 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).

²Although you also raise section 552.101 of the Government Code in conjunction with Texas Rule of Evidence 503, this office has concluded section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).

³We assume that 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 that those records contain substantially different types of information than that submitted to this office.

Section 552.116 of the Government Code provides:

(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 board, 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 submitted information consists of intra-agency communications between the town and the consultant created in an audit of various town departments by the named consultant. You state the town council is authorized by section 2.08(e) of the town charter to "collectively inquire into the conduct of any office, department or agency of the [town] and make investigations as to Municipal affairs." *See id.* § 552.116(b)(1). You further state the town council authorized the town's mayor to hire the named consultant to review the town's financial and accounting practices and to evaluate potential changes to those practices. Based on these representations and our review of the submitted information, we agree the submitted information consists of audit working papers

under section 552.116 of the Government Code. Accordingly, the town may withhold the submitted information under section 552.116 of the Government Code.⁴

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.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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLG/cz

Ref: ID# 566251

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.