



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 4, 2015

Ms. Cynthia L. Benavides  
Counsel for Sharyland Independent School District  
Jones, Galligan, Key & Lozano, LLP  
P.O. Drawer 1247  
Weslaco, Texas 78599-1247

OR2015-25443

Dear Ms. Benavides:

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# 589214.

The Sharyland Independent School District (the "district"), which you represent, received a request for information pertaining to a specified investigation conducted by a private investigator and the Texas Education Agency ("TEA") during a specified time period pertaining to the district's bidding and purchasing processes. You claim the submitted information is excepted from disclosure under sections 552.107 and 552.116 of the Government Code<sup>1</sup>. You also state, and provide documentation showing, you have notified TEA of the request and of its opportunity to submit comments to this office as to why the information should not be released to the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from TEA. We have considered the submitted arguments and reviewed the submitted information.

Initially, you and TEA state a portion of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2015-00934 (2015). In Open Records Letter No. 2015-00934, we determined the district

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<sup>1</sup>Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

may withhold the information at issue under section 552.116 of the Government Code. You state the law, facts, and circumstances on which the prior ruling were based have not changed. Accordingly, for the requested information that is identical to the information previously requested and ruled upon by this office, we conclude the district may continue to rely on Open Records Letter No. 2015-00934 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). To the extent the submitted information is not identical to the information at issue in Open Records Letter No. 2015-00934 we will address the submitted arguments against its disclosure.

TEA asserts section 552.116 of the Government Code for the submitted information. 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 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.

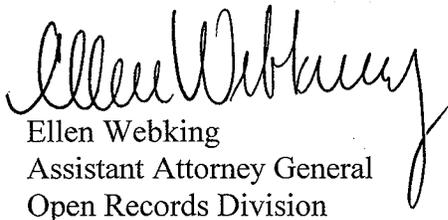
*Id.* § 552.116. TEA states the submitted information consists of audit working papers prepared or maintained by its Division of Complaints, Investigations, and Enforcement in conjunction with a pending audit of the district. TEA informs us the audit is authorized by section 39.057(a)(4) of the Education Code, which permits special accreditation investigations to be conducted in response to established compliance reviews of a school district's financial accounting practices and state and federal program requirements. *See* Educ. Code § 39.057 (listing circumstances in which the commissioner shall authorize investigations). Upon review, we agree section 552.116 is applicable in this instance. Therefore, the district may withhold the information at issue under section 552.116 of the Government Code.<sup>2</sup>

In summary, the district may continue to rely on Open Records Letter No. 2015-00934 as a previous determination and withhold the identical information in accordance with that ruling. To the extent the submitted information is not identical to the information at issue in Open Records Letter No. 2015-00934, the district may withhold the information at issue under 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,

  
Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/akg

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<sup>2</sup>As our ruling is dispositive, we need not address the district's remaining argument against disclosure of this information.

Ref: ID# 589214

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. W. Montgomery Meitler  
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(w/o enclosures)