



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 7, 2016

Ms. Erin D. Thorn
Assistant District Attorney
County of Hidalgo
100 North Closner, Room 303
Edinburg, Texas 78539

OR2016-05279

Dear Ms. Thorn:

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# 600768 (File No. 2015-0140-DA-CO).

The Office of Hidalgo County Constable, Precinct 3 (the "constable's office") received a request for (1) the report records for the past four years for missing, lost, or stolen law enforcement items, and (2) a copy of the latest "Fixed Asset Audit Report." The constable's office claims the submitted information is excepted from disclosure under sections 552.108, 552.116, and 552.130 of the Government Code. We have considered the exceptions the constable's office claims and reviewed the submitted information.

Initially, we note the constable's office has only submitted a chart. To the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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.

Gov’t Code § 552.116. The constable’s office states the submitted information consists of audit working papers maintained by the Fixed Asset Division of the Hidalgo County Purchasing Department and used by the Hidalgo County Auditor in preparation of annual financial statements as required by section 114.022(a) of the Local Government Code. *See* Local Gov’t Code § 114.022(a). The constable’s office states such information is used in the creation of the Hidalgo County Annual Independent Audit, as required by section 115.045 of the Local Government Code. *See id.* § 115.045. Based on these representations and our review, we agree section 552.116 is applicable. Therefore, the constable’s office may withhold the submitted information under section 552.116 of the Government Code.¹

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.

¹As our ruling is dispositive, we need not address the constable’s office’s remaining arguments against disclosure.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 600768

Enc. Submitted documents

c: Requestor
(w/o enclosures)