



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 26, 2017

Mr. James Nolan
Associate Deputy General Counsel
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2017-08866

Dear Mr. Nolan:

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# 655207 (Ref. ID# 13107832907).

The Texas Comptroller of Public Accounts (the "comptroller") received a request for the written audit request, written notification, and any related documents pertaining to a specified audit by a specified company. You claim the submitted information is excepted from disclosure under section 552.116 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted on behalf of the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

You state some of the information you have submitted is not responsive to the request because it does not relate to the specified company and audit. This ruling does not address the public availability of any information that is not responsive to the request, and the comptroller is not required to release such information in response to this request.

¹Although you also raise section 552.101 of the Government Code, you have not provided any argument to support this exception. Therefore, we do not address section 552.101. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

We note, the requestor asserts the information at issue is subject to sections 552.022(a)(3), (5), (8), (9), and (10) of the Government Code. Section 552.022 provides in part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

...

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate;

...

(8) a statement of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;

(9) a rule of procedure, a description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations; [and]

(10) a substantive rule of general applicability adopted or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency[.]

Gov't Code § 552.022(a)(3), (5), (8), (9), (10). Upon review, we find none of submitted information consists of information subject to section 552.022(a)(3), (5), (8), (9), or (10) of the Government Code. Accordingly, none of the submitted information is subject to required public disclosure under section 552.022.

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.

Gov't Code § 552.116. You state the submitted request for authorization to audit, audit commencement letters, and holder report history consist of audit working papers that were prepared or maintained by the comptroller's office, or entities with whom the comptroller's office has contracted to conduct such audits, in conducting audits of unclaimed properties. You also explain the unclaimed property audits are authorized by section 74.702 of the Property Code. *See Prop. Code § 74.702* (regarding comptroller's office's authority to examine records for purpose of enforcing chapter 74 of the Property Code). Further, you explain the comptroller's office is authorized to contract for audit services in conducting these audits pursuant to section 74.703 of the Property Code. *See id.* § 74.703(a). Based on your representations and our review of the information at issue, we agree the submitted information constitutes audit working papers and the comptroller's office may withhold this information 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, 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,

A handwritten signature in black ink, appearing to read "Emily Kunst", with a stylized flourish at the end.

Emily Kunst
Assistant Attorney General
Open Records Division

EK/eb

Ref: ID# 655207

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)