



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 2, 2017

Mr. August Patroelj
County Auditor
Brooks County
P.O. Box 517
Falfurrias, Texas 78355

OR2017-17325

Dear Mr. Patroelj:

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# 669300.

The Brooks County Auditor's Office (the "auditor's office") received a request for information regarding an audit in progress, including the findings of the audit. You state you do not have information responsive to a portion of the request.¹ You claim the submitted information is excepted from disclosure under section 552.116 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor has asked the auditor's office to answer questions. In responding to a request for information under the Act, a governmental body is not required to answer factual questions, conduct legal research, or create responsive information that does not exist at the time the request was received. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d at 267-68; Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1 (1990). However, a governmental body must make a good-faith effort to relate a request to information that is within its possession or control. *See Open Records*

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

Decision No. 561 at 8-9 (1990). We assume the auditor's office has made a good-faith effort to do so.

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. You state the submitted information consists of audit working papers pertaining to an audit conducted by the auditor's office. You state the audit at issue is authorized by section 115.0035 of the Local Government Code. *See* Local Gov't Code § 115.0035 (authorizing auditor's office to examine county's accounts). You explain the audit is in draft form and is still under review by the auditor's office. Based on your representations and our review, we agree the submitted information constitutes audit working papers. Therefore, the auditor's office may withhold the submitted 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 669300

Enc. Submitted documents

c: Requestor
(w/o enclosures)