



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 11, 2017

Ms. Lona Chastain
Open Records Coordinator
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2017-18307

Dear Ms. Chastain:

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# 670573 (TWC Tracking No.: 170523-012).

The Texas Workforce Commission (the "commission") received a request for specified information pertaining to a named individual and the Alamo Workforce Development Board ("AWDB").¹ You state you will withhold certain information pursuant to Open Records Decision No. 684 (2009).² You claim the submitted information is excepted from disclosure under sections 552.111 and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

¹You state the commission sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

²Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information of information without the necessity of requesting an attorney general decision. *See* ORD 684.

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 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 commission is authorized by state law to monitor certain workforce development programs. You assert the commission conducted an audit into the compliance of a workforce development program, the AWDB, with regard to contract provisions administered through the local workforce development boards or compliance with the Workforce Innovations and Opportunity Act. *See generally* Pub. L. No. 113-128, July 22, 2014, 128 Stat 1425. You state the audit was authorized by section 802.62 of Title 40 of the Administrative Code. *See* 40 T.A.C. §§ 820.62(b)(2) (agency presided over by the commission monitors compliance with applicable laws, regulations, provisions of contracts and board plans); 800.2(4) ("board" defined as a Local Workforce Development Board). You explain the submitted information was prepared or maintained in conducting the audit or preparing the audit report. Based on these representations and our review, we conclude the submitted information consists of audit working papers prepared or maintained by the commission in conducting an audit authorized

or required by a statute of this state. *See id.* § 552.116(a), (b)(1), (b)(2). Therefore, the commission 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,



Kaelan A. Henze
Attorney
Open Records Division

KAH/eb

Ref: ID# 670573

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴As our ruling is dispositive, we need not address the commission's remaining argument against disclosure of the information at issue.