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ATTORNEY GENERAL OF TEXAS

February 23, 2022

Ms. Natasha Martin
Counsel for the Lost Pines Groundwater Conservation District
Graves Dougherty Hearon & Moody
P.O. Box 98
Austin, Texas 78767-9998

OR2022-05469

Dear Ms. Martin:

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# 932053.

The Lost Pines Groundwater Conservation District (the "district"), which you represent, received a request for a specified draft report. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of the State Auditor's Office (the "SAO").¹ Accordingly, you state, and provide documentation showing, you notified the auditor's office of the request and its right to submit arguments to this office. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have received comments from the auditor's office. We have considered the submitted arguments and reviewed the submitted information.

Section 552.116 of the Government Code provides the following:

¹ We note the district did not comply with the requirements of section 552.301(e) of the Government Code in providing some of the information at issue. *See* Gov't Code § 552.301(e). Nonetheless, because third-party interests can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

(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 SAO states the information at issue consists of “a draft audit report that was provided to the [d]istrict in accordance with generally accepted auditing standards for government entities.” The SAO states the audit at issue is authorized by section 321.013 of the Government Code, which permits the SAO to conduct audits of all state departments as specified in the audit plan. *See id.* § 321.013. Based on these representations and our review, we agree the information at issue consists of audit working papers as defined in section 552.116(b)(2). Accordingly, the district may withhold the submitted information under section 552.116 of the Government Code on behalf of the SAO.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Emily Kunst
Assistant Attorney General
Open Records Division

EK/jxd

Ref: ID# 932053

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)