



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 29, 2022

Mr. Brady Flanery
Assistant City Attorney
City of Dallas
1500 Marilla Street, 7DN
Dallas, Texas 75201

OR2022-30180

Dear Mr. Flanery:

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# 972115 (Ref. No. C006669-071322).

The City of Dallas (the "city") received a request for the personnel file and disciplinary records of a named employee. 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 representative sample of information.²

Initially, we note the city has not submitted the personnel file of the named employee. To the extent information responsive to this portion of the request existed on the date the city received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

¹ Although you raise sections 552.107 and 552.111 of the Government Code, you provide no arguments explaining how these exceptions are applicable to the information at issue. Therefore, we assume the city no longer asserts these exceptions. *See* Gov't Code §§ 552.301, .302.

² We assume 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 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.

Id. § 552.116. You assert the submitted information consists of audit working papers pertaining to an audit conducted by the City Auditor’s Office in accordance with its Fraud, Waste and Abuse Policy. You state, and provide documentation demonstrating, the audit is authorized by City Council Resolution Number 98-0751, as well as Chapter III, Section 15 of the Dallas City Charter, and Chapter 12, Section 12A-1.2 of the Dallas City Code. *See id.* § 552.116(b)(1). Based on your representations and our review, we find the submitted information constitutes audit working papers. Therefore, the city 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 <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,

Chase D. Young
Assistant Attorney General
Open Records Division

CDY/jm

Ref: ID# 972115

Enc. Submitted documents

c: Requestor
(w/o enclosures)