
BEFORE THE STATE RECORDS COMMITTEE OF THE

STATE OF UTAH

JORDANELLE SPECIAL SERVICES
DISTRICT (JSSD),

Petitioner,

v.

OFFICE OF THE UTAH STATE
AUDITOR,

Respondent.

DECISION AND ORDER

Case No. 14-21

By this appeal, Petitioner, Jordanelle Special Services District (“JSSD”), seeks access to records allegedly held by Respondent, Office of the Utah State Auditor.

FACTS

In a letter dated July 21, 2014, Petitioner, Jordanelle Special Services District (“JSSD”) made a records request from the Office of the Utah State Auditor, pursuant to the Government Records Access and Management Act (“GRAMA”), for “[a]ny and all documents and other records, including all communication between the Office if the Utah State Auditor (“Utah State Auditor”) and any other person, that relate to the “Standstill Agreement”...”. The Standstill Agreement was included as an Exhibit to JSSD’s record request, and had previously been provided to the Office of the Utah State Auditor by email dated March 13, 2014.

In a letter dated August 1, 2014, the Records Officer for the Office of the Utah State Auditor denied, Petitioner's request, stating that the requested records "are part of an ongoing investigation" of the Office and are protected pursuant to Utah Code § 63G-2-305(16).

In a letter dated August 22, 2014, Petitioner filed an appeal of the Record Officer's denial, claiming the requested records do not "relate to" an ongoing or planned "audit.

In a letter dated September 5, 2014, the Office of the Utah State Auditor denied Petitioner's appeal and adopted and reaffirmed the decision and reasoning of the Records Officer of the Office of the Utah State Auditor.

The matter was appealed to the State Records Committee ("Committee") which heard this matter on December 11, 2014. The Petitioner and Respondent were represented at the hearing by their respective legal counsel, Jason Boren, attorney for JSSD and Paul Tonks, attorney for the Office of the State Auditor. The Committee heard arguments from both parties and testimony of the Respondent's witness. Additionally, the Committee reviewed the requested records *in camera*.

STATEMENT OF REASONS FOR DECISION

1. The State Auditor may initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statement, effectiveness, and adequacy of financial controls and compliance with the law. Utah Code § 67-3-1(11). During the course of its audit and investigation into the allegations of potential misuse of credit cards at JSSD, the Office of the Utah State Auditor

received, by email, a copy of the Standstill Agreement. The Standstill Agreement itself referenced the audit and investigation being conducted by the Office of the State Auditor, and required Wasatch County and JSSD to “cooperate fully with the State Auditor”.

2. The Standstill Agreement is a document that was submitted to the Office of the Utah State Auditor as a result of, and as part of, its audit and investigation into allegations of potential misuse of credit cards.
3. Testimony of the Respondent clearly represented that the Standstill Agreement relates to the ongoing audit.
4. The Government Records Access and Management Act (“GRAMA”) specifies that “all records are public unless otherwise expressly provided by statute.” Utah Code § 63G-2-201(2). Records that are private, controlled, or protected under §§ 63G-2-302, -303, -304, or 305, are not public records. Pursuant to Utah Code § 63G-2-305(16), protected records include “records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;”
5. After reviewing the arguments submitted by the parties, and hearing oral arguments and testimony, as well as reviewing the requested records *in camera* the Committee finds that the Office of the Utah State Auditor has properly classified the documents as protected records under Utah Code § 63G-2-305(16). The Committee further finds the requested records relate to an ongoing audit, in part due to the fact that the Standstill Agreement references the audit

and is itself related to the audit.

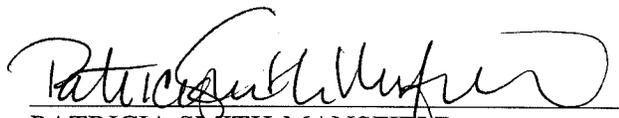
ORDER

THEREFORE, IT IS ORDERED THAT the appeal of Petitioner, Jordanelle Special Services District is **DENIED**. The requested records are records of a governmental audit agency relating to an ongoing or planned audit and, pursuant to Utah Code § 63G-2-305(16), are protected until the final audit is released. The denial by the Respondent, Office of the Utah State Auditor, shall be upheld.

RIGHT TO APPEAL

Either party may appeal this Decision and Order to the District Court. The petition for review must be filed no later than thirty (30) days after the date of this order. The petition for judicial review must be a complaint. The complaint and the appeals process are governed by the Utah Rules of Civil Procedure and Utah Code § 63G-2-404. The court is required to make its decision *de novo*. In order to protect its rights on appeal, a party may wish to seek advice from an attorney.¹

BY THE STATE RECORDS COMMITTEE



PATRICIA SMITH-MANSFIELD
Chairperson, State Records Committee

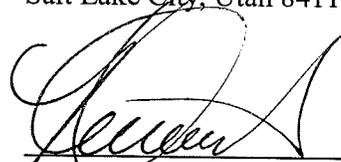
¹This notice is required by Utah Code § 63G-2-403(12)(d).

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing Decision and Order, postage prepaid, this 22nd day of December 2014, to the following:

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Nova Dubovik
Executive Secretary

