



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 23, 1995

Mr. Richard D. Monroe  
Deputy General Counsel  
Texas Department of Transportation  
Dewitt C. Greer State Highway Bldg.  
125 E. 11th Street  
Austin, Texas 78701-2483

OR95-1123

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 36382.

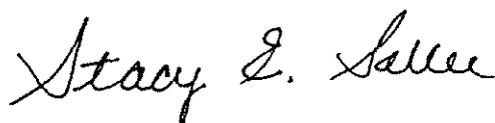
The Texas Department of Transportation (the "department") received a request for "all information involving the position of MAINTENANCE TECHNICIAN I or II TXDOT DISTRICT 14, Llano, Tx., Posting number 5 14 k505 002, closing date 1-17-95." You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit the request and the exceptions claimed to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See Gov't Code § 552.302.* This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g., Open Records Decision No. 150 (1977)* (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

The department received this request for information on September 29, 1995. However, the department did not request an opinion from this office until October 10, 1995. Therefore, the department failed to comply with the time-period mandated by the Government Code.<sup>1</sup>

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978). There may be information in the requested documents that is excepted from disclosure by law or under a third-person's right of privacy. We include for your information a list of the types of information that are confidential by law. See Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). If you have any questions regarding this matter, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/rho

Ref.: ID# 36382

Enclosures: Submitted documents  
Confidentiality list

cc: Mr. Glenn A. Pittman  
(w/o submitted documents)

Ms. Janis Roybal Salinas  
Transportation Division  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548  
(w/o submitted documents)

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<sup>1</sup>We note that Monday, October 9, 1995, was not a state holiday. Gov't Code § 662.044. Therefore, Columbus Day was not a "holiday" under the Code Construction Act. See Gov't Code § 311.014.