



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 30, 1996

Mr. Carl Mullen
Acting Executive Director
General Services Commission
P.O. Box 13047
Austin, Texas 78711-3047

OR96-0833

Dear Mr. Mullen:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36216.

The General Services Commission (the "GSC") received a request for various information including certain staffing masters. You say the GSC will release the requested information with the exception of the staffing masters because the staffing masters contain the social security numbers of current and former GSC employees. You assert that section 552.117 of the Government Code excepts the staffing masters from required public disclosure.

Section 552.117 excepts from required public disclosure, among other things, information that relates to the social security number of a current or former official or employee of a governmental body, who has chosen to keep that information confidential in accordance with section 552.024 of the Government Code. Prior to the recent amendments to the Open Records Act, section 552.117 did not cover social security numbers. The Seventy-fourth Legislature substantially amended the open records laws, including section 552.117 of the Government Code. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, 1995 Tex. Sess. Law Serv. 5127, (Vernon). The amendments to chapter 552 "affecting the availability of information, the inspection of information, or the copying of information, including the costs for copying information, apply only to a request for information that is received by a governmental body on or after September 1, 1995." *Id.* § 26(a), 1995 Tex. Sess. Law Serv. at 5142 (Vernon). A request for information that is received by a governmental body prior to September 1, 1995, is governed by the law in effect at the time the request is made. *Id.*

The GSC stamp on the request indicates that the GSC received the request for information on September 22, 1995. Therefore, section 552.117 requires you to withhold from disclosure the social security number of any official, employee, or former employee who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold the social security number of an official or employee who made the request for confidentiality under section 552.024 after this request for the documents was made.¹ Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 (1989) at 5. The remaining portions of the staffing masters may not be withheld from disclosure based on section 552.117.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/ch

Ref.: ID# 36216

¹As for those employees who did not choose to make their social security numbers confidential in accordance with section 552.024, we note that social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers here are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 of the Open Records Act on the basis of that federal provision. We caution, however, that section 552.353 of the Open Records Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the GSC pursuant to any provision of law, enacted on or after October 1, 1990.

Enclosures: Submitted documents

cc: Ms. Paula Hawkins
1901 East Anderson Lane, #253
Austin, Texas 78752
(w/o enclosures)

