



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 24, 1998

Ms. Carrol Garrison
Fannin County Appraisal District
Route 4, Box 366
Bonham, Texas 75418

OR98-2293

Dear Ms. Garrison:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118340.

The Fannin County Appraisal District (the "district") received the following request for information:

I request a copy of each employee's salary broken down for 1998. I would also like to request a copy of the proposed salary for each individual for 1999.

You assert that the request "does not sufficiently describe documents or information which is in existence at this time." You also assert that the district does not have "a document which separately sets out the salaries as requested in this letter," but you did submit one page that shows some type of retirement contributions paid per employee in June of 1998.

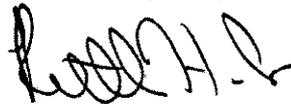
We agree that the district is not obligated to provide information that does not exist. Open Records Decision No. 452 at 3 (1986) (open records request applies to information in existence when request is received). Thus, if the district has no documents showing 1999 proposed salaries and, as 1998 has not yet concluded, has no final record showing the salary paid each employee through 1998, the district need not create these documents to respond to the request. However, we note that the district has an obligation to make a good faith effort to locate records that are responsive to a request for information. Open Records Decision No. 561 at 8 (1990). In this situation, the requestor clearly is seeking some type of information showing what the district is paying its public employees in 1998. Although you submitted a sheet that shows certain retirement contributions made for employees in June of 1998, it does not contain any information showing what type of employee salaries these contributions are based upon, if they are actually based upon salary amounts.

Section 552.303(b) provides that, when a governmental body seeks a decision from the attorney general, this office may determine whether the governmental body's submission of information is sufficient to render a decision. In this situation, we determined that the district needed to provide some other type of record showing employee salaries for 1998. We note that records that might reflect actual salaries paid in 1998 might include copies of pay stubs, internal budget records which show employee salaries on a weekly, monthly, or annual basis, or possibly bank statements showing salaries paid. However, your correspondence to this office stated that you could compile this information only "by pulling last years payroll records."

By facsimile dated July 22, 1998, this office notified you that the district needed to supply this office, within seven days from the date of receipt of the notice, the records or a representative sample of the records that are responsive to this request for information, even if, as you stated, it required the district to pull payroll records from 1997. The notice further stated that, under section 552.303(e), failure to supply these documents would result in the legal presumption that the information at issue was presumed public. The district has not provided the requested records. Thus, the requested salary information is presumed to be public information and must be released.

If you have any questions regarding this matter, please contact this office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 118340

Enclosures: Submitted documents

cc: Ms. Tina Jones
c/o Fannin County Appraisal District
Route 4, Box 366
Bonham, Texas 75418
(w/o enclosures)