



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 25, 1998

Ms. Jennifer D. Soldano  
Associate General Counsel  
Texas Department of Transportation  
Dewitt C. Greer State Highway Bldg.  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701-2483

OR98-0540

Dear Ms. Soldano:

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# 113469.

The Texas Department of Transportation (the "department") received a request for information concerning applications for a certain employment position. You state that the department has released to the requestor the first and fifth requested items. You assert that the second, third and fourth requested items are excepted from required public disclosure based on section 552.122(b) of the Government Code. The information at issue includes interview questions and answers, criteria for KSA (Knowledge, Skills and Abilities) and applicants responses to interview questions.

Section 552.122(b) of the Government Code excepts from disclosure a test item developed by a licensing agency or governmental body. "Test item" includes "any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." Open Records Decision No. 626 (1994) at 6. An evaluation does not necessarily constitute a test, however, simply because it is labeled as a test, because it is comprised of questions and answers, or because it involves some sort of scoring system. *Id.* We agree that portions of the information involve an evaluation of applicants' knowledge in a particular area. These portions are thus "test items" excepted from disclosure by section 552.122(b). However, we do not believe portions of the information are "test items." In particular, we do not believe the following questions are "test items:" the first question in number 5, all of the questions in number 6, the first question in number 7, the first two questions in number 8, numbers 9-16 in their entirety, the first question in number 17, and the grading criteria for KSA. Accordingly, you may not withhold the information we do not consider to be "test items" for purposes of section 552.122(b).

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,

A handwritten signature in cursive script that reads "Kay Hastings".

Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/rho

Ref.: ID# 113469

Enclosures: Submitted documents

cc: Mr. Robert C. Cantrell  
5427 Mossgrey  
Spring, Texas 77373  
(w/o enclosures)