



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 29, 1998

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

OR98-1090

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# 115327.

The Texas Department of Transportation (the "department") received a request for information pertaining to the application process for a particular department position. You state that the department will release to the requestor the knowledge, skills and abilities minimum qualifications and criteria as well as all applications, every document in the selection package and the score sheet. You assert that interview questions, answers and applicant responses are excepted from public disclosure based on section 552.122(b) of the Government Code.

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 questions 1 through 4 involve an evaluation of applicants' knowledge in a particular area. The questions, answers and responses for questions 1 through 4 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 that questions 5 through 12 are "test items." Accordingly, you may not withhold the questions, answers, and responses for questions 5 through 12 based on 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,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref.: ID#115327

Enclosures: Submitted documents

cc: Ms. Bettye J. Taylor
3004 Susquehanna Lane
Austin, Texas 78723
(w/o enclosures)