



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 1, 1998

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

OR98-1112

Dear Ms. Soldano:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114574.

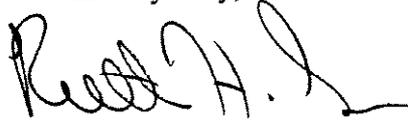
The Texas Department of Transportation (the "department") received a request for scoring criteria for a position, along with the scoring records and application packets for the individuals selected for positions. You indicate the department has released the scoring records and application packets. However, you assert that the scoring criteria is excepted from disclosure under 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.* Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. *Id.* at 6. The scoring criteria submitted appear to be basic job requirements, but are not "test items" as defined by section 552.122. The scoring criteria may not be withheld.

We are resolving this matter with an 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 should 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 black ink, appearing to read "Ruth H. Soucy", with a long horizontal flourish extending to the right.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref: ID# 114574

Enclosures: Submitted documents

cc: Mr. Robert Andrews  
6815 Ashprington Lane  
Austin, Texas 78754  
(w/o enclosures)