



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 28, 1998

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR98-1327

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115275.

The Department of Transportation (the "department") received a request for information relating to a specific job applicant including all pertinent documents related to the application and selection process. You state that you will release most of the requested information, specifically the selected applicant's application for employment and the specific rating given to the applicant's responses to interview questions.¹ However, you claim that the interview questions and the rating criteria used to evaluate the applicant's responses to interview questions are excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted representative samples of documents.

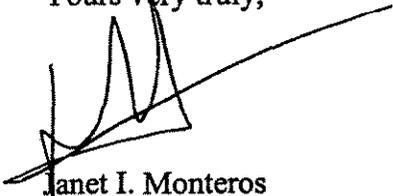
Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 (1994) at 6. Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118

¹Additionally, we note the presence of the applicant's responses to questions and as you have not raised an exception to this material, we presume you have or will release this material to the requestor.

(1976). You indicate that the department uses the submitted information to evaluate applicants in interviews. After reviewing the submitted documents, we conclude that they are not "test items" and that the department may not withhold the documents under section 552.122(b).

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref.: ID# 115275

Enclosures: Submitted documents

cc: Ms. Mary Smith
613 Avenue C Northwest
Childress, Texas 79201
(w/o enclosures)