



November 17, 1999

Mr. W. Lane Lanford
Executive Director
Public Utility Commission of Texas
P.O. Box 13326
Austin, Texas 78711-3326

OR99-3292

Dear Mr. Lanford:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 129922.

The Texas Public Utility Commission (the "commission") received a written request for, among other things, the written test that the commission administered to certain applicants for the position of "complaint specialist." You interpret the request as seeking the "test question" and the applicants' responses, and contend that such information is excepted from required public disclosure pursuant to section 552.122(b) of the Government Code.

Section 552.122(b) excepts from required public disclosure a "test item developed by a . . . governmental body." Section 552.122(b) is applicable only where the test item constitutes a "standard means by which an individual's or group's knowledge or ability in a particular area is evaluated;" this exception does not apply to evaluations of an employee's overall job performance or suitability. Open Records Decision No. 626 at 6 (1994). Whether information falls within the section 552.122(b) exception must be determined on a case-by-case basis. *Id.*

After reviewing the information at issue, we agree that the test question asked of the job applicants constitutes a "standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." Furthermore, the applicants' responses to the question necessarily reveal the substance of the test item. The commission may therefore withhold the information at issue¹ pursuant to section 552.122(b) of the Government Code.

¹We note that included among the applicants' responses is some additional information one of the applicants subsequently submitted to the commission in connection with his application. We have marked the portions of those submissions that may be withheld pursuant to section 552.122(b). The remaining portions of those documents must be released to the requestor.

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.

Sincerely,

A handwritten signature in cursive script that reads "E. Joanna Fitzgerald".

E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF/RWP/nc

Ref.: ID# 129922

cc: Ms. Rebecca Miller
Public Utility Commission of Texas
P.O. Box 13326
Austin, Texas 78711-3326
(w/o enclosures)