ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 30, 2012

Ms. Sharon Alexander
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2012-08282

Dear Ms. Alexander:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 455178.

The Texas Department of Transportation (the "department") received a request for interview questions for job vacancy numbers 016416 and 016816. You state the department is releasing most of the requested information. You claim the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted model answers are not responsive to the instant request, as the requestor only asks for the questions. The department need not release non-responsive information in response to this request, and this ruling will not address that information.

Section 552.122 of the Government Code excepts from public disclosure "a test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). 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. *Id.* at 6. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* 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 (1976).

You contend the responsive interview questions are excepted from disclosure under section 552.122(b) of the Government Code. You argue the release of this information might undermine the selection process and compromise the effectiveness of future examinations. Based on your representations and our review, we find the responsive interview questions qualify as test items under section 552.122(b). Accordingly, the department may withhold the responsive interview questions pursuant to section 552.122(b).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

Cynthia G Tynan

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/em

Ref: ID# 455178

Enc. Submitted documents

c: Requestor
(w/o enclosures)