



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 5, 1998

Ms. Linda Wiegman
Supervising Attorney
Office of General Counsel
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR98-2362

Dear Ms. Wiegman:

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# 118453.

The Texas Department of Health (the "department") received a request for information relating to a specific job posting. You state that all the requested information has been released to the requestor, except for the submitted documents which contain the interview questions and the desired corresponding responses/answers. You claim that the remaining requested information is excepted from disclosure under section 552.122(b) of the Government Code. We have considered the exception you claim and reviewed the submitted documents.

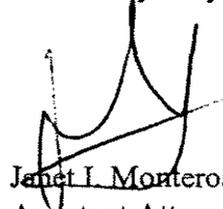
Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability 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 at 6 (1994). 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).

In this instance, you seek to withhold the interview questions and answers, as well as the knowledge, skill and ability criteria used to grade the applicant in the screening

process. You state that "although the interview process for this position is completed, the interview questions and desired responses/answers will be used again in future interviews for other positions with the same job functions." Additionally, you inform this office that the department has recently implemented new personnel policies relating to the interview process whereby the various offices within the department are not required to submit interview questions and desired responses/answers to the department human resources department for prior approval before their use in interviews. You indicate that release of the documents submitted for our review would compromise the department's ability to hire the best-qualified applicants. We have considered your arguments and reviewed the submitted documents. We agree that some of the interview questions and responses are "test items," and the department may withhold them under section 552.122(b). However, we do not believe that interview questions and responses 1, 2, 3,4, 6, 8, 9, 10, 11, and 12, test an individual's or group's knowledge or ability in a particular area, but rather, evaluate an employee's overall job performance or suitability. You may not, therefore, withhold from disclosure interview questions and responses 1,2, 3, 4, 6, 8, 9, 10, 11, and 12 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/nc

Ref.: ID# 118453

Enclosures: Submitted documents

cc: Mr. Paul Dehlinger
639 Overlook Court
Arlington, Texas 76012
(w/o enclosures)