



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 15, 1998

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
Dewitt C. Greer Sate Highway Bldg.
125 E. 11th Street
Austin, Texas 78701-2483

OR98-3132

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120678.

The Texas Department of Transportation (the "department") received a request for 1) interview answers from all people who interviewed for JVN #817 K525 393 (Crew Chief), 2) scores from the interviews, and 3) applications of those who received interviews. You state that you will provide the requestor with information responsive to items 2 and 3 after the redaction of confidential information. However, you claim that the interview questions and answers are test items which are excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

case-by-case basis. Open Records Decision No. 626 at 6 (1994). After reviewing the submitted information, we conclude that questions one through five test an individual's or group's knowledge or ability in a particular area. Because the answers tend to reveal the questions, the city may withhold questions 1-5 and the answers to these questions under section 552.122(b). The remaining questions and answers must be disclosed.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 120678

Enclosure: Submitted documents

cc: Mr. Danny Gurka
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(w/o enclosures)