



August 3, 1999

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

OR99-2191

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# 126281.

The Texas Department of Transportation (the “department”) received a request for access to the “questions, preferred answers and answers that [the requestor] gave to JVN # 8-52-A110 945.” The interview consisted of nine questions. You contend that the questions and answers to numbers 1, 2, 3, 4, and 8 are excepted from disclosure pursuant to section 552.122(b) of the Government Code. You state that the questions and answers to numbers 5, 6, 7, and 9 will be provided to the requestor.

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). Having reviewed the interview questions and answers at issue, we find that numbers 2, 3, 4, 8, and the marked portion of number 1 are excepted from disclosure under section 552.122(b). The unmarked portion of number 1 and the first page of the submitted documents are not excepted from disclosure under section 552.122(b) and must be released.

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,

  
Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 126281

Encl. Submitted documents

cc: Ms. Kathy Roberson  
9803 Ochiltree Drive  
Austin, Texas 78753  
(w/o enclosures)