



September 7, 1999

Ms. Joanne Wright
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR99-2480

Dear Ms. Wright:

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# 127501.

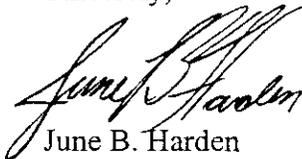
The Texas Department of Transportation (the "department") received a request for information relating to a specific job posting. You state that you will release the applications, initial screening, and interview scores. You claim, however, that the remaining information is excepted from disclosure under section 552.122(b) of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

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. We note that while section 552.122 may apply where release of test items might compromise the effectiveness of future examinations, the question must first fall within the definition of a "test item". *Id.* at 4-5, *see also* Open Records Decision No. 118 (1976). 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).

In this instance, you seek to withhold the interview questions and answers, as well as the knowledge skill and ability ("KSA") criteria used to grade the applicant in the screening process. You state that you "do not ask to withhold the KSAs, those are listed on the Job Vacancy Notice, but rather . . . ask to withhold the grading criteria for each KSA." You indicate that the release of the submitted documents would allow the requestor to gain an unfair advantage over all other applicants and defeat the department's mandate to hire the best-qualified applicant. We have considered your arguments and have reviewed the submitted documents. We agree that interview questions 4 and 12 and their responses, as well as the KSA criteria 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, 5, 10, and 11 test an individual's or group's knowledge or ability in a particular area, but rather, evaluate an applicant's overall job suitability. You may not, therefore, withhold from disclosure interview questions and responses 1, 5, 10, and 11 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.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 127501

Encl. Submitted documents

cc: Mr. Douglas T. Lowe
10933 Crown Colony Drive
Austin, Texas 78747
(w/o enclosures)