



October 20, 1999

Ms. Janice Marie Wilson
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR99-2964

Dear Ms. Wilson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130173.

The Texas Department of Transportation (the department) received a request for the scores and written responses to interview questions concerning job vacancy number 9-52-M040-493. The requestor seeks his own information as well as that of the person who was selected for the position. You have released most of the requested information. You argue that interview questions 1 and 2, as well as the preferred answers to those questions, are excepted from required public disclosure by section 552.122(b) of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

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(b) 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(b) 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(b) where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

After reviewing the submitted documents, we believe that the two questions, numbers 1 and 2, their rating criteria (preferred answers), and candidate answers are protected "test items." They "measure the skill, knowledge, intelligence, capacities, or aptitudes of an individual" and are a "standard means by which an individual's or group's knowledge or ability in a

area is evaluated.” Open Records Decision No. 626 at 6 (1994). Consequently, questions 1 and 2 and their related information may be withheld under section 552.122(b). *Id.* at 8 (when answers to test questions might reveal the questions themselves, the information may be withheld under section 552.122); *see* Attorney General Opinion JM-640 at 3 (1987).

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,



Patricia Michels Anderson
Assistant Attorney General
Open Records Division

PMA/ljp

Ref: ID# 130173

Encl. Submitted documents

cc: Mr. Mark J. Krupa
103 Little Bend Drive
Georgetown, Texas 78628
(w/o enclosures)