



November 8, 1999

Mr. Kevin McCalla
Director, General Law Division
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR99-3138

Dear Mr. McCalla:

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# 128903.

The Texas Natural Resource Conservation Commission (the "commission") received a request for information relating to Job Posting #99498. You state that you will release most of the responsive information. You seek, however, to withhold the interview questions, model answers, and interviewees' responses to the interview questions under section 552.122(b). We have considered the exception you claim and have reviewed the submitted information.

Section 552.122 excepts from disclosure test items developed by an educational institution, a licensing agency, or a 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). We have reviewed the records at issue and conclude that you may withhold question numbers 9, 10, 11, and 12, and the corresponding model answers and interviewees' answers under section 552.122. The remaining questions and answers comprise an evaluation of an applicant's background and past job experience, but are not "test items" as defined by section 552.122. Accordingly, the remaining interview questions and answers 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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose-Michel Munguia". The signature is fluid and cursive, with a large initial "R" and "M".

Rose-Michel Munguia
Assistant Attorney General
Open Records Division

RMM/jc

Ref: 128903

Encl. Submitted documents

cc: Ms. Kay Galluzzo
7108 Foxtree Cove
Austin, Texas 78750
(w/o enclosures)