



November 16, 1999

Ms. Joanne Wright  
Associate General Counsel  
Texas Department of Transportation  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701-2483

OR99-3282

Dear Ms. Wright:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the “act”), chapter 552 of the Government Code. Your request was assigned ID# 129697.

The Texas Department of Transportation (the “department”) received a request for information relating to a specific job posting. In response to the request, you submit to this office for review the information at issue. You state that “[a]ll of the information has been or will be released to [the requestor], with the exception of the criteria for rating the applicants.” You claim, however, that the submitted information is excepted from disclosure under section 552.122(b) of the Government Code. We have considered your arguments and claimed exception, and reviewed the submitted information.

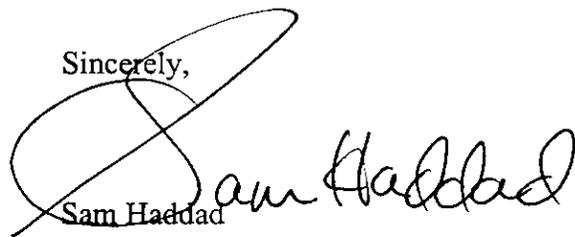
Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term “test item” in section 552.122 includes any standard means by which an individual’s or group’s knowledge or ability 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 have only submitted a one page document consisting of the knowledge skill and ability (“KSA”) grading criteria used to grade an applicant in the screening process. You state that you “do not ask to withhold the KSAs, that 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 “KSA grading criteria” would allow the requestor to gain “an

unfair advantage over all other applicants and would defeat the department's mandate to hire the best-qualified applicant." We agree that the KSA grading criteria may be withheld under section 552.122(b) of the Government Code.

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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/nc

Ref.: ID# 129697

Encl. Submitted documents

cc: Ms. Dian S. Knox  
16002 Kelli Drive  
Channelview, Texas 77530  
(w/o enclosures)