



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 27, 2009

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2009-01056

Dear Ms. Aguilar:

You ask 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# 333536.

The City of Corpus Christ (the "city") received a request for several categories of information pertaining to the interview and selection process for a specified position, including information about the top five candidates. You claim that portions of the submitted information are excepted from disclosure under sections 552.117, 552.122, and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former home addresses and telephone numbers, social security number, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). You state, and provide documentation that demonstrates, the employees at issue elected to keep these types of information confidential prior to the city receiving the request

¹We note that in your letter dated November 21, 2008, you have withdrawn your remaining assertions under the Act.

for information; therefore, the city must withhold the information you have marked under section 552.117(a)(1) of the Government Code.

Section 552.122(b) of the Government Code excepts from disclosure test items developed by a licensing agency or governmental body. Gov't Code § 552.122(b). 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. *Id.* 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). Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You seek to withhold the submitted interview questions, as well as the applicants' answers and evaluations of the applicants, under section 552.122. You assert that release of the submitted hypothetical questions and candidate answers would compromise the city's hiring process and the effectiveness of future interviews. Having considered your arguments and reviewed the information at issue, we conclude that some of the interview questions qualify as test items for the purposes of section 552.122(b). We also conclude that the release of the submitted answers to those questions would tend to reveal the questions themselves. Accordingly, the city may withhold the information we have marked under section 552.122 of the Government Code. We find, however, that the remaining interview questions are general questions evaluating an applicant's general workplace skills and overall suitability for employment and do not test any specific knowledge of an applicant. Further, we find that the evaluations of applicant responses do not tend to reveal the questions themselves. Accordingly, we determine that the remaining questions and applicant evaluations are not test items under section 552.122(b) and therefore may not be withheld on this basis.

Section 552.130 excepts from disclosure "information [that] relates to... a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. We agree that the information you have marked is excepted under section 552.130 of the Government Code.

In summary, the city (1) must withhold the information you have marked under section 552.117(a)(1) of the Government Code, (2) may withhold the information we have marked under section 552.122 of the Government Code, and (3) must withhold the information you have marked under section 552.130 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/jb

Ref: ID# 333536

Enc. Submitted documents

cc: Requestor
(w/o enclosures)