



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 2, 2009

Mr. Erik Brown  
Assistant General Counsel  
Office of the General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2009-04344

Dear Mr. Brown:

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# 338884.

The Texas Department of Criminal Justice (the "department") received a request for the complete selection packet, including all application and interview documentation, from job posting number 024509ID. You state that some of the information will be made available to the requestor. You claim that the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the requestor informed our office that she has narrowed her request to the department and no longer requests the interview questions and recommended answers. Thus, these items are not responsive to the instant request for information, and only the applicants' responses to the questions are responsive. This ruling does not address the public availability of any information that is not responsive to the request, and the department need not release that information in response to this request.

Section 552.122 of the Government Code excepts from public disclosure "a test item developed by a . . . 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. *Id.* at 6. The question of whether specific information falls within the scope of section 552.122(b) 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); Open Records Decision No. 626 at 8 (1994).

You state the submitted interview questions are “intended to display the technical expertise of the applicant” and the department prefers to use similar questions from one position selection to the next. Further, you argue release of the information at issue could compromise future interviews. Having considered your arguments and reviewed the submitted information, we find that interview questions 2 through 6 qualify as test items under section 552.122(b) of the Government Code. We find the release of the actual answers to these questions would tend to reveal the questions themselves. Therefore, the department may withhold the actual answers to questions 2 through 6, which we have marked, under section 552.122(b). We find, however, that interview questions 1, 7, 8, and 9 and the applicants’ closing remarks are general questions or statements evaluating an applicant’s individual abilities, personal opinions, and subjective ability to respond to particular situations, and do not test any specific knowledge of an applicant. Accordingly, the actual answers to questions 1, 7, 8, and 9 and the applicants’ closing remarks may not be withheld from disclosure under section 552.122 of the Government Code. As you raise no further exceptions to disclosure, this information which we have marked 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](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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/jb

Ref: ID# 338884

Enc. Submitted documents

c: Requestor  
(w/o enclosures)