



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 6, 2009

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

OR2009-06054

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# 342295.

The Texas Department of Criminal Justice (the "department") received a request for a specified interview documentation form. You state that you have released a portion of the requested information. 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.

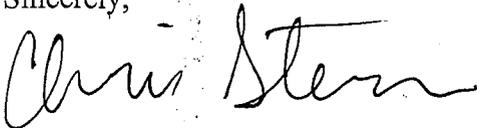
Section 552.122(b) of the Government Code excepts from disclosure test items developed by a licensing agency or governmental body. Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which 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 state that the interview questions at issue measure the technical expertise of an applicant and that the release of those test items might compromise the effectiveness of future examinations. Having considered your arguments and reviewed the submitted information, we find that the interview questions we have marked qualify as "test items" under section 552.122(b) of the Government Code. Therefore, the department may withhold the questions and answers we have marked pursuant to section 552.122(b) of the Government Code. As the remaining information does not constitute "test items" for purposes of section 552.122, the remaining information must be released to the requestor.

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,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 342295

Enc. Submitted documents

c: Requestor  
(w/o enclosures)