



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 27, 2009

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2009-15228

Dear Ms. Byles:

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# 359708 (Fort Worth PIR No. 5113-09).

The City of Fort Worth (the "city") received a request for all information from the interviews for a specified position. You state you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). We note you have redacted home addresses, home telephone numbers, and cellular telephone numbers of current and former city employees.<sup>1</sup> You state the city has released some of the requested information. You claim portions of the submitted information

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<sup>1</sup>Section 552.024(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, information relating to an employee's or official's or former employee's or official's home address, home telephone number, or social security number, or that reveals whether the person has family members, if the person chooses not to allow public access to the information. This office has determined that section 552.117, an analogous section of the Government Code, encompasses personal cellular telephone numbers, provided the cellular telephone service is paid for by the employee with his or her own funds. *See* Open Records Decision Nos. 670 at 6 (2001), 506 at 5-6 (1988). We note one of the "day or message" telephone numbers you have redacted appears to be the work telephone number of a current city employee. If this telephone number, which we have marked, is the work telephone number of a current city employee, it may not be redacted under section 552.024 and must be released.

are excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

You assert that the marked interview questions and model and actual answers are excepted under section 552.122(b) of the Government Code, which excepts from required 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. 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.

Having reviewed the submitted information, we find that questions 1, 2, 9, and 10 evaluate the applicant's specific knowledge or ability in a particular area, thus qualifying as "test items" under section 552.122(b) of the Government Code. We also find that release of the model and actual answers to these test items would tend to reveal the questions themselves. Therefore, the city may withhold this information, which we have marked, pursuant to section 552.122(b). However, we find that questions 3 through 8 are general questions 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, questions 3 through 8 and the model and actual answers to these questions are not excepted from disclosure under section 552.122 of the Government Code, and must be released to the requestor.

We note that you have marked e-mail addresses in the submitted information under section 552.137 of the Government Code. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov't Code § 552.137(a)-(c). The e-mail addresses you have marked do not appear to be of a type specifically excluded by section 552.137(c). Therefore, unless the individuals at issue

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<sup>2</sup>We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

consent to release of their e-mail addresses, the city must withhold the e-mail addresses you have marked under section 552.137.

In summary, the city may withhold questions 1, 2, 9 and 10, as well as the model and actual answers to these questions, under section 552.122 of the Government Code. The city must withhold the e-mail addresses you have marked under section 552.137. 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](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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/eeg

Ref: ID# 359708

Enc. Submitted documents

c: Requestor  
(w/o enclosures)