



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 19, 2010

Mr. Robert N. Jones, Jr.  
Assistant General Counsel  
Texas Workforce Commission  
101 East 15<sup>th</sup> Street  
Austin, Texas 78778-0001

OR2010-05526

Dear Mr. Jones:

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# 376633 (TWC Tracking No. 100201-028).

The Texas Workforce Commission (the "commission") received a request for the interview questions for the Accounts Examiner position. 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 of the Government Code excepts from 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. ORD 626 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); ORD 626 at 8.

You seek to withhold the submitted interview questions under section 552.122. You argue that release of this information would compromise the effectiveness of future examinations. Having considered your arguments and reviewed the information at issue, we conclude that interview questions one, two, three, and fourteen qualify as test items for the purposes of section 552.122(b). Accordingly, we conclude that the commission may withhold questions one, two, three, and fourteen 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. Accordingly, we determine that the remaining questions are not test items under section 552.122(b) and therefore may not be withheld on this basis. As you raise no further arguments against disclosure of the remaining information, it 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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 376633

Enc. Submitted documents

c: Requestor  
(w/o enclosures)