



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 11, 2010

Ms. Charlotte A. Towe
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2010-08543

Dear Ms. Towe:

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# 382230.

The Texas Department of Criminal Justice (the "department") received a request for interview questions for the department's Manager IV position in a specified department. You claim the requested information is excepted from disclosure under section 52.122 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor only requests the interview questions. Therefore, the recommended answers you have submitted are not responsive to this request. This ruling does not address the public availability of nonresponsive information, and the department is not required to release nonresponsive information in response to this request. Accordingly, we will address your argument with regard to the responsive information.

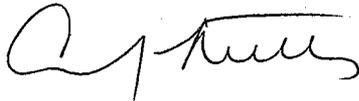
Section 552.122(b) of the Government Code excepts from required public disclosure "a test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by 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.

You state that the submitted interview questions are "intended to display the technical expertise of the applicant" and that the department prefers to use similar questions from one position selection to the next. Further, you argue that release of the information at issue could compromise future interviews. Upon review, we find that questions 1, 3, and 4 evaluate the applicant's specific knowledge or ability in a particular area, thus qualifying as "test items" under section 52.122(b) of the Government Code. Therefore, the department may withhold this information pursuant to section 552.122(b). However, we find that questions 2, 5, 6, and 7 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 2, 5, 6, and 7 are not excepted from disclosure under section 552.122 of the Government Code. As you raise no further exceptions to disclosure of these interview questions, they 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, 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) 672-787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 382230

Enc. Submitted documents

c: Requestor
(w/o enclosures)