



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 28, 2010

Ms. Carolyn Wright
Assistant General Counsel
Texas Department of State Health Services
P.O. Box 149347
Austin, Texas 78714-9347

OR2010-11343

Dear Ms. Wright:

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# 388371 (DSHS File: 17470).

The Texas State Department of Health Services (the "department") received a request for the interview questions for a specified job posting. 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. 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).

You seek to withhold all of the submitted interview questions. You explain that the questions are used to test an applicant's specific knowledge, skills, and abilities related to the essential functions of the position. You argue that the release of the submitted questions

would compromise the effectiveness of future examinations and limit the department's ability to select the best qualified candidate in future interviews. You also state that the department reuses the interview questions at issue. Having considered your arguments and reviewed the submitted information, we find the questions we have marked evaluate an applicant's specific knowledge or ability in a particular area, thus qualifying as "test items" under section 552.122(b) of the Government Code. Therefore, the department may withhold this information under section 552.122(b). However, we find the remaining information consists of general questions and information evaluating an applicant's individual abilities, personal opinions, subjective ability to respond to particular situations, and overall suitability for employment and does not test any specific knowledge of an applicant. Accordingly, the remaining information is not excepted from disclosure under section 552.122 of the Government Code. As you raise no further exceptions against disclosure, 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, 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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/em

Ref: ID# 388371

Enc. Submitted documents

c: Requestor
(w/o enclosures)