



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 2, 2010

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

OR2010-13351

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# 392930.

The Texas Department of Criminal Justice (the “department”) received a request for information pertaining to a specified department job opening and the applicants for that position. You state the department has made or will make a portion of the requested information available to the requestor. You claim the submitted oral examination questions and answers are excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

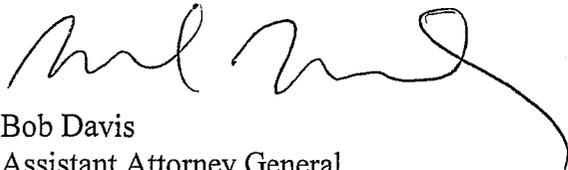
Section 552.122(b) of the Government Code excepts from disclosure “a test item developed by a . . . governmental body[.]” Gov’t Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined that the term “test item” includes any standard means by which an individual’s or group’s 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.* at 6. 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 the submitted oral examination questions and answers are structured to review selected areas of expertise that a person occupying the position would encounter. Upon review, we find these questions evaluate applicants' individual abilities, personal opinions, and subjective ability to respond to particular situations they may encounter on the job. They do not test any specific objective knowledge of an applicant. Accordingly, the submitted oral examination questions and their corresponding model and applicant answers may not be withheld from disclosure under section 552.122 of the Government Code. As you raise no other exceptions to disclosure, the submitted 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/tp

Ref: ID# 392930

Enc. Submitted documents

c: Requestor
(w/o enclosures)