



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 7, 2010

Ms. Jennifer Soldano
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

OR2010-13532

Dear Ms. Soldano:

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# 392773.

The Texas Department of Motor Vehicles (the "department") received a request for the interview questions and answers provided by the requestor and the winning candidate for a specified employment position. You state you will release most of the requested information to the requestor. You claim the remaining 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 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 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 question, as well as the actual and preferred answer to that question, under section 552.122 of the Government Code. Having reviewed the question at issue, we find it consists of a general question that evaluates an applicant's personal opinions and subjective ability to respond to a particular situation, and does not test any specific knowledge of an applicant. Consequently, the department may not withhold any of the submitted information under section 552.122. As you raise no other exceptions against disclosure, the department must release the submitted information.

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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/tp

Ref: ID# 392773

Enc. Submitted documents

c: Requestor
(w/o enclosures)