



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2010

Ms. Heather Stebbins
Assistant City Attorney
City of Kerrville
800 Junction Highway
Kerrville, Texas 78028-2215

OR2010-16633

Dear Ms. Stebbins:

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# 399100.

The Kerrville Police Department (the "department") received a request for information pertaining to a named individual's employment application. 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.

Initially, we note that you have only submitted interview board questions and answers pertaining to the named applicant. Thus, to the extent the department maintained any additional information responsive to the request on the date the it received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 interview board questions and applicant answers are intended to test the applicant's individual knowledge in a particular area of law enforcement and ability to serve with the department. However, 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 interview board questions and their corresponding applicant answers may not be withheld from disclosure under section 552.122 of the Government Code. As you raise no further exceptions to disclosure, the submitted information must be released to this requestor.¹

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 399100

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the information being released contains confidential information to which the requestor has a right of access. See Gov't Code § 552.117; Gov't Code § 552.023 (person has special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect person's privacy interests). Thus, if the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.