



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2011

Ms. Margo Kaiser
Staff Attorney
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2011-02761

Dear Ms. Kaiser:

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# 410260 (TWC Tracking No. 101207-012).

The Texas Workforce Commission (the "commission") received a request for applicant scores, interview scores, and the basis for the decision to hire for a specified job posting.¹ You state some of the responsive information will be released to the requestor with redactions pursuant to Open Records Decision No. 684 (2009) and sections 552.024 and 552.147 of the Government Code.² You claim that portions of the submitted information

¹You state the commission received verbal clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²We note that Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision. Section 552.024(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision by this office, the home address, home telephone number, social security number, and family member information of a current or former employee of the governmental body who properly elected to keep this information confidential, provided that the governmental body provides the requestor with the notice required by section 552.024(c-2). *See* Gov't Code § 552.024(c). In addition, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social

are excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.³

Section 552.122 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" 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 questions, as well as the actual answers to those questions, under section 552.122 of the Government Code. Upon review, however, we find the submitted interview questions are general questions evaluating an applicant's general workplace skills and overall suitability for employment, and do not test any specific knowledge of an applicant. Accordingly, we determine the submitted questions are not test items under section 552.122(b). Therefore, the commission may not withhold the interview questions and answers under section 552.122 of the Government Code. As you raise no further arguments against disclosure of the submitted information, it 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

security number from public release without the necessity of requesting a decision from this office under the Act.

³We assume that the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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,

A handwritten signature in black ink, appearing to read "Sarah Casterline", with a stylized flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/vb

Ref: ID# 410260

Enc. Submitted documents

c: Requestor
(w/o enclosures)