



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 6, 2011

Ms. Sharon Alexander  
Associate General Counsel  
Texas Department of Transportation  
125 East Eleventh Street  
Austin, Texas 78701-2483

OR2011-09558

Dear Ms. Alexander:

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# 423405.

The Texas Department of Transportation (the "department") received a request for the requestor's interview questions and answers for the Alice Area Engineer position, the list of preferred answers, the selected applicant's answers, and the requestor's application screening criteria, score and ranking. You state some of the requested information is being released. You claim the submitted interview 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.<sup>1</sup>

Section 552.122 of the Government Code excepts from 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 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. *Id.* at 6. The question of whether specific information falls

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<sup>1</sup>We assume the representative sample of records 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 those records contain substantially different types of information than that submitted to this office.

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); Open Records Decision No. 626 at 8 (1994).

You assert the submitted interview questions test the knowledge, skills, and abilities required for the Alice Area Engineer position. You state the department anticipates using these questions for future position vacancies of this kind. Based on your representations and our review, we conclude interview questions four and eight are “test items” under section 552.122(b) of the Government Code. Furthermore, we find release of the applicants’ answers and the preferred answers to these questions would reveal the questions themselves. Therefore, the department may withhold interview questions four and eight, the applicants’ answers, and the preferred answers pursuant to section 552.122(b) of the Government Code. However, interview question nine evaluates an applicant’s individual abilities, personal opinions, and subjective ability to respond to a particular situation, and does not test any specific knowledge of an applicant. Accordingly, interview question nine, the applicants’ answers, and the preferred answer may not be withheld from disclosure under section 552.122 of the Government Code. As you raise no other exceptions to disclosure, this 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](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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/eb

Ref: ID# 423405

Enc. Submitted documents

c: Requestor  
(w/o enclosures)