



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 19, 2011

Ms. Lea Burnett  
Associate General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

OR2011-12047

Dear Ms. Burnett:

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# 427441.

The Texas Department of Motor Vehicles (the "department") received a request for information pertaining to a specified job interview. You state you have provided the requestor with some information. 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 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 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 seek to withhold the submitted interview questions, the preferred and actual answers to those questions, and the job simulation and performance criteria under section 552.122 of

the Government Code. You state that this information reflects an evaluation of an individual's knowledge or ability in a particular area. You state further that release of such information would give an unfair advantage to interviewees in the hiring process. Upon review, we find the job simulation evaluates an individual's knowledge or ability in a particular area, and the performance criteria reveals the job simulation exercise. Therefore, the department may withhold the submitted job simulation and performance criteria under section 552.122 of the Government Code. However, we find the submitted interview questions evaluate an applicant's individual abilities, general workplace skills, and subjective ability to respond to a particular situation, and do not test any specific knowledge of an applicant. Accordingly, we determine the submitted interview questions, as well as their preferred and actual answers, are not test items under section 552.122(b) of the Government Code and therefore may not be withheld on this basis. As you raise no further arguments against disclosure, the interview questions, as well as their preferred and actual answers, 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,



Kirsten Brew  
Assistant Attorney General  
Open Records Division

KB/em

Ref: ID# 427441

Enc. Submitted documents

c: Requestor  
(w/o enclosures)