



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 23, 2011

Ms. Shirley Thomas
Senior Assistant General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2011-12169

Dear Ms. Thomas:

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# 428780 (ORR# 8302).

Dallas Area Rapid Transit ("DART") received a request for information pertaining to the requestor's client, including his training documents. You state you have made some of the requested information available to the requestor, but claim 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.

You assert that the submitted test items and their responses are excepted under section 552.122 of the Government Code. Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. 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. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994).

You inform us the submitted information consists of DART Transit Police Department tests related to the use of batons and oleoresin capsicum aerosol. Having reviewed the submitted documents, we conclude some of the submitted information, including the information pertaining to collapsible baton recertification, oleoresin capsicum aerosol, and collapsible

baton basic exam questions and practical exams are “test items” for purposes of section 552.122(b). Therefore, you may withhold these questions and their responses, which we have marked, under section 552.122(b). However, we conclude you have not established the remaining information consists of test items for purposes of section 552.122(b). Therefore, you may not withhold the remaining information under section 552.122, but instead must release this information to the requestor.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 428780

Enc. Submitted documents

c: Requestor
(w/o enclosures)