



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 14, 2011

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

OR2011-16685

Dear Ms. Soldano:

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# 440808.

The Texas Department of Motor Vehicles (the "department") received a request for the following information regarding job posting numbers 016234 and 016235: (1) applications for applicants interviews, (2) responses to questions and related scores for applicants interviewed, (3) writing exercises for applicants interviewed, (4) all correspondence, and (5) names, job title and salaries for applicants hired into the positions. You state that a cost estimate for some of the information has been provided to the requestor. You also 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 represented sample of information.¹

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

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

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); ORD 626 at 8. You seek to withhold the submitted writing exercises under section 552.122. Having considered your arguments, we find the writing exercises at issue qualify as test items under section 552.122(b). We also find the release of the actual answers to the questions would tend to reveal the questions themselves. We therefore conclude the department may withhold the submitted information under section 552.122 of the Government Code.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 440808

Enc. Submitted documents

c: Requestor
(w/o enclosures)