



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 30, 2012

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

OR2012-01495

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# 443728.

The Texas Department of Motor Vehicles (the “department”) received a request for the following information for the Planner II position, job requisition number 016255: (1) job applications and competencies for the top three applicants, (2) hiring supervisor notes and scoring sheets for the top three applicants, (3) job simulations and results for the top three applicants and (4) the hiring supervisor’s notes and job simulation for a named individual. You claim that a portion of the requested 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.¹

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

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.

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 job simulation questions, as well as the preferred and actual answers to those questions, in Exhibit B under section 552.122. Having reviewed the questions at issue, we agree that they evaluate an individual’s knowledge or ability in a particular area. Furthermore, we find that release of the preferred and actual answers to these questions might reveal the questions themselves. Therefore, the department may withhold the submitted job simulation questions, as well as the corresponding preferred and actual answers, in Exhibit B 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 443728

Enc. Submitted documents

c: Requestor
(w/o enclosures)