



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 31, 2012

Ms. Heather Stebbins
Assistant City Attorney
City of Kerrville
800 Junction Highway
Kerrville, Texas 78028-2215

OR2012-01565

Dear Ms. Stebbins:

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# 444354.

The City of Kerrville (the "city") received two requests for information pertaining to the selected candidate or candidates for two specified job postings. You state the city will release some of the requested information. You 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 information.

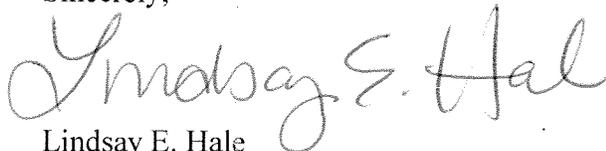
Section 552.122 of the Government Code excepts from disclosure "[a] test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes "any standard means by which an individual's 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. ORD 626 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 state the questions and interviewer's notes of the applicant's actual answers constitute "factual questions requiring specific knowledge" or are "situational questions requiring the applicant to explain what steps are necessary in a given situation." You also explain the city reuses the interview questions and release of the information would compromise future examinations. Upon our review, we conclude interview questions 14 and 15 qualify as test items under section 552.122(b) of the Government Code. We also find the release of the interviewer's notes for questions 14 and 15 would tend to reveal the questions themselves. Accordingly, the city may withhold the questions and interviewer's notes for questions 14 and 15 under section 552.122. However, we find the remaining information consists of questions that evaluate each applicant's general workplace skills, personal opinions, individual abilities, and overall suitability for employment, and do not test any specific knowledge of an applicant. Accordingly, we determine that this information does not constitute test items under section 552.122(b) and the city may not withhold the remaining information on this basis. As you raise no other arguments against disclosure of the remaining information, it 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, 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 444354

Enc. Submitted documents

c: Requestor
(w/o enclosures)