



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 28, 2012

Ms. Sharon Alexander
Associate General Counsel
Texas Department of Transportation
125 East Eleventh Street
Austin, Texas 78701-2483

OR2012-03083

Dear Ms. Alexander:

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# 446825.

The Texas Department of Transportation (the "department") received a request for interview questions and responses for Job Requisition number 16078 and all records related to the requestor's job interview on a specified date. You state you have released most of the responsive information to the requestor. You claim the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the claimed exception and reviewed the submitted representative 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 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

¹We assume the "representative sample" of information 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.

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 seek to withhold the submitted interview question, as well as the preferred and actual answer to this question, under section 552.122(b) of the Government Code. You claim this question evaluates an individual’s knowledge or ability in a particular area. You inform us the department anticipates using this question in future interviews and argue release of this information would compromise the effectiveness of future examinations. We find, however, the submitted information consists of a question that evaluates an applicant’s general knowledge and subjective ability to respond to a particular situation, and does not test any specific knowledge of an applicant. Thus, we determine the submitted question is not a test item under section 552.122(b) of the Government Code and, therefore, may not be withheld on this basis. As you raise no further exceptions to disclosure, the submitted information 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 446825

Enc. Submitted documents

c: Requestor
(w/o enclosures)