



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 21, 2012

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2012-04099

Dear Ms. Byles:

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# 448518 (PIR No. W013890).

The City of Fort Worth (the "city") received a request for all documents concerning the application and selection process for a specified position. You state the city is releasing some of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the representative sample of information.<sup>1</sup>

Section 552.122 of the Government Code excepts from required 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 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. *See id.* Traditionally, this office has applied section 552.122 where release of "test items" might

---

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

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 claim the interview questions and model answers you have marked are excepted from disclosure under section 552.122(b) of the Government Code. You argue that the release of this information would be disadvantageous to the selection process and would jeopardize the effectiveness of future examinations. Having considered your arguments and reviewed the submitted information, we find the interview questions we have marked evaluate an applicant's specific knowledge or ability in a particular area and, thus, qualify as "test items" under section 552.122(b). We also find the release of the model answers to these interview questions, which we have marked, would tend to reveal the questions themselves. Therefore, the city may withhold the information we have marked under section 552.122(b) of the Government Code. We find, however, the remaining interview questions you have marked only evaluate an applicant's individual abilities, personal opinions, and subjective ability to respond to particular situations and do not test any specific knowledge of an applicant. Accordingly, we conclude the remaining interview questions you have marked, as well as the model answers to these questions, are not test items under section 552.122(b) and therefore may not be withheld on this basis. As no other exceptions to disclosure are raised for the remaining information, the city must release it.

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](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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/dls

Ref: ID# 448518

Enc. Submitted documents

c: Requestor  
(w/o enclosures)