



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 2, 2012

Ms. Charlotte A. Towe  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2012-04739

Dear Ms. Towe:

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# 449333.

The Texas Department of Criminal Justice (the "department") received a request for the interview documentation form for a specified position. You state the department will release some 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 exception you claim and reviewed the submitted information.

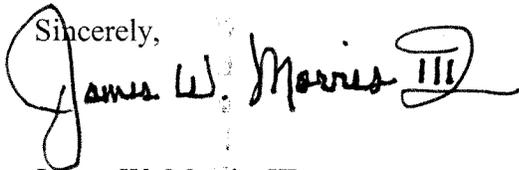
Section 552.122 of the Government Code excepts from disclosure "a test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined the term "test item" in section 552.122 includes "any standard means by which an individual's 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. *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 interview questions and answers under section 552.122. Having considered your arguments, we find the information we have marked qualifies as test items under section 552.122(b), and the answers tend to reveal the questions themselves. Accordingly, the department may withhold the information we have marked under section 552.122 of the Government Code. However, the remaining information only evaluates an applicant's individual abilities, personal opinions, and subjective ability to respond to particular situations and does not test any specific knowledge of an applicant. Accordingly, the remaining information does not consist of test items under section 552.122(b) and may not be withheld on that basis. As you have not claimed any other exceptions to disclosure, this 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](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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large initial "J" and a stylized "M".

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ag

Ref: ID# 449333

Enc. Submitted documents

c: Requestor  
(w/o enclosures)