



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 9, 2012

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

OR2012-05026

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# 450037 (City PIA Request No. W014258).

The City of Fort Worth (the "city") received a request for information pertaining to a specified job position. You state the city has released some of the requested information. You claim some of 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 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 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.*

¹We 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 that those records contain substantially different types of information than that submitted to this office.

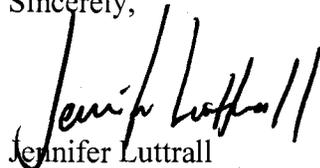
Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You seek to withhold the interview questions and exercise you have marked, as well as the actual and model answers to those questions, under section 552.122. You argue that release of this information would be disadvantageous to the selection process and jeopardize the effectiveness of future examinations. Having considered your arguments and reviewed the information at issue, we conclude the information you marked pertaining to the job interview exercise qualifies as a test item for the purposes of section 552.122(b). Accordingly, we conclude the city may withhold the information you marked pertaining to the job interview exercise under section 552.122 of the Government Code. However, we find the remaining interview questions you marked evaluate an applicant’s individual abilities, general workplace skills, and subjective ability to respond to a particular situation, and do not test any specific knowledge of an applicant. Accordingly, we determine the remaining interview questions are not test items under section 552.122(b) of the Government Code. Therefore, the remaining interview questions and the associated model and actual answers to those questions may not be withheld under section 552.122. As you raise no exceptions to 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 450037

Enc. Submitted documents

c: Requestor
(w/o enclosures)

bc: M
(w/o enclosures)