



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 26, 2012

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

OR2012-06013

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# 451783.

The City of Fort Worth (the "city") received a request for the appeal questions for the Corporal/Sergeant Exam for the last four years. You claim the requested information is excepted from disclosure under sections 552.101 and 552.122 of the Government Code. We have considered your claimed exceptions to disclosure and reviewed the submitted sample information.<sup>1</sup>

Section 552.122(b) 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. Whether information falls within the scope of section 552.122 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

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<sup>1</sup>We assume the sample records submitted to this office are 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.

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); Open Records Decision No. 626 at 8 (1994).

You inform us Exhibit C consists of exam questions used to evaluate the qualifications of candidates for promotion in the city's police and fire departments. You indicate the exam questions are re-used. You argue release will undermine the city's ability to properly assess candidates and compromise the effectiveness of future candidate examinations. Having reviewed the submitted information and your arguments, we find the exam questions are "test items" that may be withheld under section 552.122(b) of the Government Code.<sup>2</sup>

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,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/som

Ref: ID# 4351783

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>Because section 552.122 is dispositive, we need not address your remaining argument against disclosure.