



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 29, 2012

Mr. David C. Schulze
Interim General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2012-10082

Dear Mr. Schulze:

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# 457571 (DART ORR 8956).

Dallas Area Rapid Transit ("DART") received a request for information pertaining to the requestor's interview for a specified position. You claim the responsive information is excepted from disclosure under section 552.122 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note a portion of the information you have submitted is not responsive to the instant request, which seeks only information pertaining to the requestor's interview. This ruling does not address the public availability of the non-responsive information, which we have marked, and DART is not required to release non-responsive information in response to this request.

Section 552.122(b) 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. 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).

You seek to withhold submitted interview questions under section 552.122(b). You assert release of the information would "provide an unfair advantage to future applicants" and "impair DART's ability to evaluate qualified candidates[.]" Having considered your arguments and reviewed the information at issue, we find the submitted information consists of questions that evaluate an applicant's general knowledge, personal opinions, and subjective ability to respond to particular situations, and do not test any specific knowledge of an applicant. Thus, these items are not test items under section 552.122(b) of the Government Code and may not be withheld on that basis. As you raise no additional exceptions to disclosure, the submitted information must be released to the requestor.

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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/som

Ref: ID# 457571

Enc. Submitted documents

c: Requestor
(w/o enclosures)