



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 25, 2012

Mr. John Scott Carlson  
General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2012-17113

Dear Mr. Carlson:

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# 468908 (DART ORR 9214).

The Dallas Area Rapid Transit ("DART") received a request for information pertaining to why the requestor was turned down for a specified position. 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.

Initially, we note the request requires DART to answer a question. The Act does not require a governmental body to answer general questions, perform legal research, or create new information in response to a request for information. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, the Act does require the governmental body to make a good faith effort to relate a request to information that the governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 at 8 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989). In this instance, we assume DART has made a good faith effort to locate any information responsive to this request. Accordingly, we will address your claimed exception for the submitted information.

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 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.* 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 application package which includes the candidate selection form, score sheet, interview guide, personal profile, and interview questions and responses for DART’s Track Maintainer position under section 552.122 of the Government Code. You state release of the submitted information would provide an unfair advantage to future applicants for this position, thereby impairing DART’s ability to evaluate qualified individuals. Upon review, we find the submitted information, including the submitted interview questions, consist of general questions or statements evaluating the applicant’s individual abilities, personal opinions, general workplace skills, subjective ability to respond to particular situations, and overall suitability for employment, and do not test any specific knowledge of the applicant. We find you have failed to explain how the submitted information constitutes test items for purposes of section 552.122. Accordingly, we determine the submitted information does not consist of test items under section 552.122(b) of the Government Code and may not be withheld on that basis. As no further exceptions to disclosure have been raised, the submitted information must be released.<sup>1</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

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<sup>1</sup>We note the information being released contains the requestor’s e-mail address, which would be confidential under section 552.137 of the Government Code with respect to the general public. However, the requestor has a right of access to his own e-mail address pursuant to section 552.137(b), and it must be released to him. Should DART receive another request for this information from another requestor, DART is authorized to redact the requestor’s e-mail address without requesting an opinion from this office pursuant to Open Records Letter No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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 "Cynthia G. Tynan". The signature is written in a cursive, slightly slanted style.

Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/akg

Ref: ID# 468908

Enc. Submitted documents

c: Requestor  
(w/o enclosures)