



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2012

Ms. Amy Benya
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
209 West 14th Street, Suite 500
Austin, Texas 78701

OR2012-19401

Dear Ms. Benya:

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# 476926.

The Texas Department of Criminal Justice (the "department") received a request for information related to a specified job posting. You state you 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 information you submitted.

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. Open Records Decision No. 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 state the submitted interview materials measure whether an applicant has the knowledge and abilities necessary for a particular position. You contend release of the information at issue could compromise the effectiveness of future examinations. Based on your representations and our review, we conclude the department may withhold the submitted information under section 552.122 of the Government Code.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/tch

Ref: ID# 476926

Enc. Submitted documents

cc: Requestor
(w/o enclosures)