



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 5, 2012

Ms. Danielle R. Folsom
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-19529

Dear Ms. Folsom:

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# 474325 (GC No. 20066).

The City of Houston (the "city") received a request for "selection criteria and resulting selections" related to a specified job posting. You state some responsive information will be released 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 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 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. *Id.* 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.

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.

You seek to withhold the submitted interview questions and answers under section 552.122. You state the interview questions are used to measure the applicant's knowledge and ability regarding the job for which the individual is applying. You inform us the city's public works and engineering department intends to use the same or similar questions in the future.

Based on your representations and our review, we find some of the submitted information evaluates an applicant's specific knowledge or ability in a specific area, and qualifies as test items under section 552.122(b). We also find the release of some of the answers would tend to reveal the questions. Accordingly, the city may withhold the information we have marked under section 552.122(b) of the Government Code. We find the remaining questions are of a more general nature and tend to solicit opinion, general knowledge, or information that is not sufficiently specific to any particular position and the remaining answers do not reveal the questions. We therefore conclude the city may not withhold any of the remaining information under section 552.122. Thus, as you claim no other exception to disclosure, the remaining information 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 474325

Enc. Submitted documents

c: Requestor
(w/o enclosures)