



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 23, 2013

Ms. Margaret Wilson  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

OR2013-06674

Dear Ms. Wilson:

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# 484982.

The Texas Department of Motor Vehicles (the "department") received a request for the screening documents and scoring, interview questions and preferred answers, and interview notes and results as well as applications for the applicants selected for a specified job vacancy. You state the department is releasing some of the responsive information, with redactions made pursuant to sections 552.024 and 552.130(c) of the Government Code.<sup>1</sup> You claim some of the submitted information is excepted from disclosure under section

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<sup>1</sup>Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body. Gov't Code § 552.117(a). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses to not allow public access to the information. *Id.* § 552.024(c). Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record information described in subsections 552.130(a)(1) and (a)(3). *Id.* § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor).

552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.122 of the Government Code exempts from 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. Open Record 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.*

You seek to withhold questions 2, 6, 7, and 10 and their respective answers and job simulation number 1 under section 552.122(b). You argue release of this information will give an unfair advantage in the hiring process. Upon review, we agree questions 2 and 10 consist of test items for purposes of section 552.122(b). Additionally, we find release of the actual responses to questions 2 and 10 would tend to reveal the questions themselves. Therefore, the department may withhold questions 2 and 10 as well as the actual responses to these questions under section 552.122(b) of the Government Code. We find, however, the remaining information you seek to withhold evaluates the applicants' individual experience and abilities, professional opinions, and subjective abilities to respond to particular situations and does not test any specific knowledge of an applicant. Thus, you have failed to demonstrate the applicability of section 552.122 of the Government Code to any of the remaining information at issue, and the department may not withhold it on that basis. As no further exceptions to disclosure have been raised, the department must release the remaining information.

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\\_orf.php](http://www.oag.state.tx.us/open/index_orf.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>2</sup>We assume that 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.

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, appearing to read 'Nneka Kanu', written over a horizontal line.

Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/bhf

Ref: ID# 484982

Enc. Submitted documents

c: Requestor  
(w/o enclosures)