



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 31, 2013

Ms. Halfreda Anderson Nelson  
Senior Assistant General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2013-13171

Dear Ms. Anderson Nelson:

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# 494914 (DART ORR 9912).

Dallas Area Rapid Transit ("DART") received a request for records pertaining to the requestor's interview for a specified position. You state DART released some of the information. You claim that 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.

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. 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 state the release of the submitted interview guides would provide an unfair advantage to future applicants, requiring DART to change its interview questions in order to secure the confidentiality of the testing requirements for the position at issue. Based on your representations and our review, we find Questions B1 and B2 qualify as test items under section 552.122(b) of the Government Code. We also find the release of the evaluator comments for Questions B1 and B2 would tend to reveal the question itself. Accordingly, DART may withhold Questions B1 and B2 and the corresponding evaluator comments under section 552.122(b) of the Government Code. However, the remaining information evaluates the applicant's individual abilities, personal opinions, and subjective abilities to respond to particular situations, and it does not test any specific knowledge. Therefore, we conclude DART has not demonstrated the remaining information consists of test items subject to section 552.122(b) of the Government Code, and DART may not withhold it on that basis. As you raise no further exceptions, 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/tch

Ref: ID# 494914

Enc. Submitted documents

c: Requestor  
(w/o enclosures)