



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2013

Mr. Stephen A. Cumbie
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3RD Floor
Fort Worth, Texas 76102

OR2013-14127

Dear Mr. Cumbie:

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# 496278 (CFW PIR No. W026146).

The City of Fort Worth (the "city") received a request for specified information pertaining to a specified position. You inform us the city is releasing some of the requested information. You claim some 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 an educational institution that is funded wholly or in part by state revenue[.]" Gov't Code § 552.122(a). 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 assert the release of the marked interview questions, answers, and interview panelists' notes would be disadvantageous to the selection process for the position at issue and would

jeopardize the effectiveness of future examinations. Based on your representations and our review, we conclude Supplemental Interview Questions 2, 3, 4, and 5, and Written Exercise Question 1, qualify as "test items" under section 552.122(b) of the Government Code. We also find the release of the model answers, the individuals' answers, and the interview panelists' notes pertaining to these questions would tend to reveal the questions themselves. Therefore, the city may withhold Supplemental Interview Questions 2, 3, 4, and 5; and Written Exercise Question 1; and the model answers, the individuals' answers, and the interview panelists' notes pertaining to these questions under section 552.122(b) of the Government Code. We find, however, the remaining questions you have marked only evaluate an applicant's individual abilities, personal opinions, and subjective ability to respond to particular situations and do not test any specific knowledge of an applicant. Accordingly, we conclude the remaining interview questions you have marked, as well as the model answers, the individuals' answers, and the interview panelists' notes pertaining to these questions, are not test items under section 552.122(b). Thus, the city may not withhold the remaining information you have marked on that basis. As no further exceptions to disclosure are raised for the remaining information, the city must release it.

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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 496278

Enc. Submitted documents

c: Requestor
(w/o enclosures)