



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 13, 2013

Mr. Stephen A. Cumbie  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2013-15978

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# 499389 (PIR No. W026800).

The City of Fort Worth (the "city") received a request for all documents pertaining to the decision and reasons the requestor was disqualified from employment or did not meet the minimum standards for employment as a city police officer. You state you have released some of the requested information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.122 of the Government Code.<sup>1</sup> 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.

---

<sup>1</sup>Although you raise section 552.101 of the Government Code, you have not provided any arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

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 interview questions and answers you have marked would be disadvantageous to the selection process for the position at issue and would jeopardize the effectiveness of future examinations. Having reviewed the information at issue, we find question number 2 and question number 4 are test items under section 552.122(b) of the Government Code. We also find the release of the applicant answers to these questions would tend to reveal the questions themselves. Therefore, the city may withhold question numbers 2 and 4, as well as the applicant answers to these questions, under section 552.122 of the Government Code. We find, however, the remaining question you have marked only evaluates an applicant’s individual abilities, personal opinions, and subjective ability to respond to particular situations and does not test any specific knowledge of an applicant. Accordingly, we conclude the remaining question and answer you have marked are not test items under section 552.122(b). Thus, the city may not withhold any of the remaining information at issue on that basis. As no further exceptions to disclosure are raised for the remaining information, it must be released.<sup>2</sup>

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.

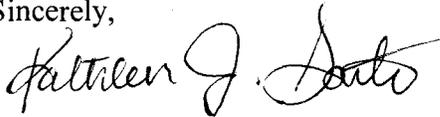
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

---

<sup>2</sup>We note the requestor has a right of access under section 552.023 of the Government Code to some of the information being released. *See* Gov’t Code § 552.023. If the city receives another request for this same information from a person who does not have such a right of access, we note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov’t Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov’t Code § 552.130(d), (e). Additionally, we note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting an attorney general decision under the Act. *See id.* § 552.147(b). Finally, we note a governmental body may withhold a peace officer’s home address and telephone number, personal cellular telephone and pager numbers, social security number, and family member information under section 552.117(a)(2) of the Government Code without requesting a decision from this office. *See* Open Records Decision No. 670 (2001).

[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,

A handwritten signature in cursive script that reads "Kathleen J. Santos".

Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/som

Ref: ID# 499389

Enc. Submitted documents

c: Requestor  
(w/o enclosures)