



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 10, 2013

Ms. Patricia Fleming
Assistant General Counsel
Office of General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2013-17631

Dear Ms. Fleming:

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# 503251.

The Texas Department of Criminal Justice (the "department") received a request for the interview documentation, selected person's application, and selection information pertaining to job posting number 004399PD for a Human Resources Specialist V in Program Compliance and Support Operations. The department asserts the submitted questions and corresponding answers are excepted from disclosure under section 552.122 of the Government Code. To the extent the rest of the requested information exists, we assume the department has released it. *See* Gov't Code §§ 552.301, .302. We have considered the exception the department claims and reviewed the submitted information.

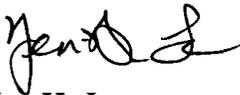
Section 552.122(b) of the Government Code excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception 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. After reviewing the submitted information, we agree questions two and three and their corresponding answers test an individual's knowledge in a particular area and thus constitute a "test item." Therefore, the department may withhold questions two and three and their corresponding answers under section 552.122. However, the remaining questions 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 questions and answers are not test items under section 552.122(b). Thus, 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.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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 503251

Enc. Submitted documents

c: Requestor
(w/o enclosures)