



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 16, 2014

Mr. Carey E. Smith
General Counsel
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

OR2014-12312

Dear Mr. Smith:

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# 530129.

The Texas Health and Human Services Commission (the "commission") received a request for the application, written interview questions and responses, and scoring/rating matrix and/or notes used in the selection process for all applicants for a specified employment position, all forms and/or notes related to reference or background checks for all applicants for the specified position, and all forms or notes related to the person selected for the specified position. You state you have released some information to the requestor. You claim 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 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." 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.* at 7. Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *See* Open Records Decision No. 118 (1976); *see generally* ORD 626 at 4-5. Section 552.122 also protects the answers

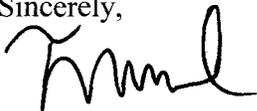
to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987).

You seek to withhold the submitted test exercises and responses under section 552.122. You explain the commission uses the questions at issue on a continuing basis during the commission's hiring process. You assert the release of the information at issue would compromise the effectiveness of the commission's interview and hiring process. Having considered your arguments and reviewed the submitted information, we find the submitted test exercises evaluate an applicant's specific knowledge or ability in a particular area and, thus, qualify as "test items" under section 552.122(b). We also find the release of the responses to the submitted test exercises would tend to reveal the exercises themselves. Accordingly, the commission may withhold submitted the information under section 552.122(b) of the Government Code.

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 530129

Enc. Submitted documents

c: Requestor
(w/o enclosures)