ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 25, 2014

Ms. Heather Silver
Assistant City Attorney
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2014-12962

Dear Ms. Silver:

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# 530414.

The City of Dallas (the "city") received a request for the requestor's written responses, all assessors' notes, and all evaluation results related to a specified promotional exam. You state the city is releasing some information to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.[1]

Section 552.122(b) of the Government Code excepts from required 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, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the scope of section 552.122 must be determined on a case-by-case basis. ORD 626. 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

[1]We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

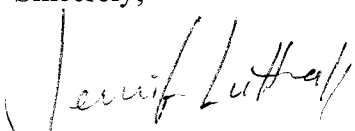
also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You explain Exhibit D consists of the candidate's handwritten notes that he took during the test exercises at issue. You inform us these test exercises, which you have submitted to this office for our review, are utilized by the city to measure the practical capabilities and knowledge of candidates for promotion in the city's fire-rescue department. You explain the test exercises "are re-used verbatim, or with only minor changes, on an on-going basis to provide for consistent evaluations of candidates[.]" You state the release of the candidate's notes will reveal the subject matter of the test questions and permit candidates to reconstruct the test questions, thereby undermining the city's ability to assess candidates in a consistent manner, and compromising the effectiveness of future candidate assessments. Having considered your arguments and reviewed the submitted information, we find the test exercises at issue are test items under section 552.122(b) of the Government Code. We also find release of the submitted notes would tend to reveal the questions themselves. Therefore, the city may withhold Exhibit D under section 552.122 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 530414

Enc. Submitted documents

c: Requestor
(w/o enclosures)