



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 19, 2014

Mr. David V. Overcash
Counsel for the City of Anna
Wolfe, Tidwell & McCoy, LLP
2591 Dallas Parkway, Suite 205
Frisco, Texas 75034

OR2014-16683

Dear Mr. Overcash:

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# 542084 (PIR No. CO3029PIR20140815-01).

The City of Anna (the "city"), which you represent, received a request for the requestor's personnel file. You state the city will release some of the requested 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(a) 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." ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(a) 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 interview questions and answers you have marked under section 552.122. You state the city's fire department (the "department") uses the interview questions at issue on a continuing basis during the department's hiring process, and release of the information at issue would compromise the effectiveness of the department's interview and hiring process. Having considered your arguments and reviewed the submitted information, we find question eleven qualifies as a test item under section 552.122(b) of the Government Code. Accordingly, the city may withhold question eleven under section 552.122(b) of the Government Code. However, we conclude the city has not demonstrated the remaining information you have marked consists of test items subject to section 552.122(b) of the Government Code, and the city may not withhold it on that basis. As you raise no further exceptions for this information, the remaining information must be released.

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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 542084

Enc. Submitted documents

c: Requestor
(w/o enclosures)