



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 1, 2014

Ms. Maureen Franz
Deputy Chief Counsel
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

OR2014-17447

Dear Ms. Franz:

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# 541000.

The Texas Health and Human Services Commission (the "commission") received a request for the interview questions, "in-basket" questions, responses, and scores for applicants to a specified position.¹ You state the commission has 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, some of which consists of a representative sample.²

¹We note the commission sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We assume that 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 that those records contain substantially different types of information than that submitted to this office.

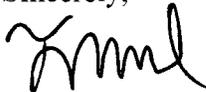
Section 552.122 of the Government Code exempts from public disclosure “a test item developed by a . . . governmental body[.]” Gov’t Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined the term “test item” in section 552.122 includes “any standard means by which an individual’s 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(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 submitted test exercises and responses under section 552.122 of the Government Code. You explain the commission uses the questions at issue on a continuing basis during its hiring process. You assert the release of the information at issue would compromise the effectiveness of the commission’s interview and hiring process. Based on your representations and our review, we agree the submitted questions are “test items” under section 552.122(b) of the Government Code. Furthermore, we find release of the answers to these questions would reveal the questions themselves. Therefore, the commission may withhold the submitted 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# 541000

Enc. Submitted documents

c: Requestor
(w/o enclosures)